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Wednesday
November 20, 1991

Briefing on How To Use the Federal Register
For information on a briefing in Washington, DC, see announcement on the inside cover of this issue.

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WHAT IT IS AND HOW TO USE IT

FOR: Any person who uses the Federal Register and Code of Federal Regulations.

WHO: The Office of the Federal Register.

WHAT: Free public briefings (approximately 3 hours) to present:

1. The regulatory process, with a focus on the Federal Register system and the public's role in the development of regulations.
2. The relationship between the Federal Register and Code of Federal Regulations.
3. The important elements of typical Federal Register documents.
4. An introduction to the finding aids of the FR/CFR system.

WHY: To provide the public with access to information necessary to research Federal agency regulations which directly affect them. There will be no discussion of specific agency regulations.

WASHINGTON, DC

WHEN: November 25, at 9:00 a.m.
WHERE: Office of the Federal Register, First Floor Conference Room, 1100 L Street NW., Washington, DC.
RESERVATIONS: 202–523–5240.
DIRECTIONS: North on 11th Street from Metro Center to southwest corner of 11th and L Streets

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DEPARTMENT OF ENERGY

Office of Fossil Energy

10 CFR Part 1049

Guidelines for the Exercise of Limited Arrest Authority and Use of Force by Protective Force Officers of the Strategic Petroleum Reserve

AGENCY: Strategic Petroleum Reserve Office, Department of Energy.

ACTION: Final rule.

SUMMARY: The Department of Energy (DOE) is adopting final regulations prescribing guidelines for the exercise of limited arrest authority and use of force by Protective Force Officers of the Strategic Petroleum Reserve (SPR). These guidelines are in accordance with section 661 of the Department of Energy Organization Act (42 U.S.C. 7270a), and authorize officers guarding the SPR to carry firearms while discharging their official duties, and in certain instances to make arrests without warrant. This action follows publication of a notice of proposed rulemaking on August 1, 1991 (56 FR 36743). No public comments were received in response to that notice.

EFFECTIVE DATE: This final rule will be effective December 20, 1991.

FOR FURTHER INFORMATION CONTACT:
Ralph LaMonda, Office of the Strategic Petroleum Reserve, Department of Energy, Mail Stop FE–421, Forrestal Building, 1000 Independence Avenue, SW., Washington, DC 20585, (202) 586–4692.
Durinda Robinson, Office of Chief Counsel, Department of Energy, Strategic Petroleum Reserve, 900 Commerce Road East, New Orleans, Louisiana 70123, (504) 734–4312.

SUPPLEMENTARY INFORMATION:

I. Background

On August 1, 1991, DOE published a notice of proposed rulemaking to implement section 661 of the Department of Energy Organization Act (42 U.S.C. 7270a) which was added to that Act by Public Law No. 100–531, October 25, 1988, 102 Stat. 2652. Section 661 of the Act authorizes designated employees of the Department of Energy and designated Department of Energy contractors or subcontractors (hereinafter "Protective Force Officer") to carry firearms and make limited warrantless arrests while discharging their official duties. These guidelines set forth procedures uniformly applicable to the exercise of such authority at all SPR sites, and are intended to assist officers in assuring the adequate protection of the SPR and persons and property in or upon the SPR and to assure the reasonable exercise of arrest authority and the reasonable use of force in the course of exercising such authority.

In the notice of proposed rulemaking, DOE invited interested persons to submit comments on the proposed rule by September 3, 1991. DOE did not receive any comments, and the Department has decided to adopt the proposed regulation as final regulations.

II. Summary of the Final Rule

The guidelines prescribed in this final rule establish policies and procedures regarding the exercise of limited arrest authority and authority to carry firearms by DOE employees and employees of DOE contractors and subcontractors while discharging their official duties. These guidelines apply to the exercise of these authorities while protecting the SPR or its storage or related facilities and protecting persons upon the SPR or its storage or related facilities.

This final rule defines "arrest," "deadly force," "contractor," and "SPR," based on current case law and section 661 of the Act. The definitions of "Act," "Protective Force Officer," "suspect" and self-explanatory.

Under this rule, a Protective Force Officer while discharging official duties may arrest any person without warrant for an offense against the United States if the officer has "reasonable cause" to believe that the person; (1) Has committed or is committing a felony and is in or is fleeing from the immediate area of the crime; or (2) is committing a felony or misdemeanor in the officer's presence. The final rule defines "reasonable grounds" to arrest based on current case law.

This final rule directs Protective Force officers to follow certain arrest procedures to ensure that the suspect is informed of the arrest and the reasons for the arrest, and addresses the officer's authority to search the suspect or the area into which the suspect might reach to obtain a weapon or to destroy evidence. This section also is based upon current case law.

This final rule mandates that the officer advise the suspect of the constitutional right against self-incrimination ("*Miranda*" warnings) in accordance with current case law. This requirement is not intended to prevent the officer from responding to an imminent danger to himself or to other persons. Therefore, to protect the suspect and the officer in these circumstances, the officer must advise the suspect of this right as soon as practicable after the imminent danger has passed.

This final rule directs Protective Force Officers to transfer custody of arrested suspects to other law enforcement personnel to ensure the protection of the suspect's procedural rights. These guidelines permit limited questioning of suspects by the Protective Force Officer as necessary to protect the SPR and persons upon the SPR, and also permits such questioning as authorized by other law enforcement personnel.

Under this final rule, the officer's authority to use non-deadly force is limited to force that is "reasonable and necessary" to apprehend or arrest the suspect to prevent escape or to defend the officer or other persons from what the officer "reasonably believes" to be the use or threat of imminent use of non-deadly force by the suspect. Verbal abuse is not the basis for use of non-deadly force by the officer. Protective Force Officers are directed to consult with DOE counsel and contractor counsel to assure the application of uniform policy among SPR sites.

In accordance with current case law and law enforcement practice, these guidelines limit the officer's authority to use deadly force, and states that the officer shall give a verbal warning if feasible, and shall not fire warning shots.

The regulation authorizes officers that have completed the basic training course to carry firearms and to use arrest authority. The regulation describes the basic training course, requires Protective Force Officers to maintain firearms competency by subsequent annual training, and addresses qualification for the use of fireams. The regulation also sets forth departmental policy regarding: (1) The type of firearms used; (2) security, inventory, and maintenance of firearms; (3) suspension of officers due to incidents involving use of firearms; and (4) reporting and investigation of firearms incidents.

Section 1049.10 of this regulation precludes any action by any person based upon these guidelines, which are prescribed solely for internal guidance. Thus, these guidelines do not, and may not be relied upon to create, any substantive or procedural rights enforceable at law by any party in any civil or criminal proceeding.

III. Procedural Requirements

A. Section 501 of the DOE Organization Act

The notice of proposed rulemaking was promulgated under section 501(c) of the DOE Organization Act in accordance with section 553 of title 5, United States Code, based upon our finding that no substantial issue of fact or law existed and that this rule is unlikely to have a substantial impact on the Nation's economy or large numbers of individuals or businesses.

B. Environmental Review

This rulemaking is not a major Federal action significantly affecting the quality of the human environment within the meaning of the National Environmental Policy Act of 1969.

C. Review Under Executive Order No. 12291

DOE has determined that the incremental effect of today's final rule will not have the magnitude of effects on the economy to bring the rule within the definition of a "major rule" contained in Executive Order No. 12291. This rule imposes no regulatory burden on the economy, on individuals, public or private organizations, or State and local governments. The rule is not likely to result in: (1) An annual effect on the economy of $100 million or more; (2) a major increase in costs or prices for consumers, individual industries, Federal, State, and local government agencies, or geographic regions; or (3) significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of the of the United States-based enterprises to compete with foreign-based enterprises in domestic or export markets. Pursuant to the Executive Order, this final rule was reviewed by the Office of Management and Budget (OMB).

D. Review Under Executive Order No. 12612

Executive Order No. 12612 requires that rules be reviewed for Federalism effects on the institutional interest of states and local governments, and if the effects are sufficiently substantial, preparation of a Federalism assessment is required to assist senior policymakers. This final rulemaking to implement section 661 of the DOE Organization Act will not have any substantial direct effects on State and local governments within the meaning of the Executive Order. The final rulemaking affects Federal agency property that is not subject to direct State regulation.

E. Review Under the Regulatory Flexibility Act

The Regulatory Flexibility Act, Public Law No. 96–345 (5 U.S.C. 601–612), requires that an agency prepare an initial regulatory flexibility analysis to be published at the time the rule is published. The requirement (which appears in section 603 of the Act) does not apply if the agency "certifies that the proposed rule will not, if promulgated, have a significant economic impact on a substantial number of small entities." This rule will not have any economic impact.

F. Review Under the Paperwork Reduction Act

No new information collection or recordkeeping requirements are imposed by this rule. Accordingly, no OMB clearance is required under the Paperwork Reduction Act of 1980 (44 U.S.C. 3501 *et seq.*).

List of Subjects in 10 CFR Part 1049

Federal buildings and facilities, Government contracts, Law enforcement, Security measures.

Issued in Washington, DC, on November 8, 1991.

Linda G. Stuntz,

Acting Assistant Secretary for Fossil Energy.

Accordingly, a new part 1049 is hereby added to chapter X, title 10 of the Code of Federal Regulations, as set forth below:

PART 1049—LIMITED ARREST AUTHORITY AND USE OF FORCE BY PROTECTIVE FORCE OFFICERS OF THE STRATEGIC PETROLEUM RESERVE

Sec.

Authority: 42 U.S.C. 7101 *et seq.*

§ 1049.1 Purpose.

The purpose of these guidelines is to set forth internal Department of Energy (DOE) security policies and procedures regarding the exercise of arrest authority and the use of force by DOE employees and DOE contractor and subcontractor employees while discharging their official duties pursuant to section 661 of the Department of Energy Organization Act.

§ 1049.2 Scope.

These guidelines apply to the exercise of arrest authority and the use of force, as authorized by section 661 of the Department of Energy Organization Act, as amended, 42 U.S.C. 7101 *et seq.*, by employees of DOE and employees of DOE's SPR security contractor and subcontractor. These policies and procedures apply with respect to the protection of:

(a) The SPR and its storage or related facilities; and

(b) Persons upon the SPR or its storage or related facilities.

§ 1049.3 Definitions.

(a) *Act* means sections 661 of the Department of Energy Organization Act, as amended, (42 U.S.C. 7270a).

(b) *Arrest* means an act resulting in the restriction of a person's movement, other than a brief consensual detention for purposes of questioning about a person's identity and requesting

identification, accomplished by means of force or show of authority under circumstances that would lead a reasonable person to believe that he was not free to leave the presence of the officer.

(c) *Contractor* means a contractor or subcontractor at any tier.

(d) *Deadly force* means that force which a reasonable person would consider likely to cause death or serious bodily harm.

(e) *Protective Force Officer* means a person designated by DOE to carry firearms pursuant to section 661 of the Act.

(f) *SPR* means the Strategic Petroleum Reserve, its storage or related facilities, and real property subject to the jurisdiction or administration, or in the custody of the Department of Energy under part B of title I of the Energy Policy and Conservation Act (42 U.S.C. 6231–6247).

(g) *Suspect* means a person who is subject to arrest by a Protective Force Officer as provided in these guidelines.

§ 1049.4 Arrest authority.

(a) Under the Act, the authority of a DOE Protective Force Officer to arrest without warrant is to be exercised only in the performance of official duties of protecting the SPR and persons within or upon the SPR.

(b) A Protective Force Officer is authorized to make an arrest for a felony committed in violation of laws of the United States, or for a misdemeanor committed in violation of laws of the United States if the offense is committed in the officer's presence.

(c) A Protective Force Officer also is authorized to make an arrest for a felony committed in violation of laws of the United States if the Officer has reasonably grounds to believe that the felony has been committed, or that the suspect is committing the felony, and is in the immediate area of the felony or is fleeing the immediate area of the felony. "Reasonable grounds to believe" means that the facts and circumstances within the knowledge of the Protective Force Officer at the moment of arrest, and of which the Protective Force Officer has reasonably trustworthy information, would be sufficient to cause a prudent person to believe that the suspect had committed or was committing a felony.

§ 1049.5 Exercise of Arrest Authority—General Guidelines.

(a) In making an arrest, and before taking a person into custody, the Protective Force Officer should:

(1) Announce the Protective Force Officer's authority (*e.g.*, by identifying himself as an SPR Protective Force Officer);

(2) State that the suspect is under arrest; and

(3) Inform the suspect of the crime for which the suspect is being arrested. If the circumstances are such that making these announcements would be useless or dangerous to the Officer or to another person, the Protective Force Officer may dispense with these announcements.

(b) At the time and place of arrest, the Protective Force Officer may search the person arrested for weapons and criminal evidence, and may search the area into which the person arrested might reach to obtain a weapon to destroy evidence.

(c) After the arrest is effected, the person arrested shall be advised of his constitutional right against self-incrimination ("*Miranda* warnings"). If the circumstances are such that immediately advising the person arrested of this right would result in imminent danger to the Officer or other persons, the Protective Force Officer may postpone this requirement. The person arrested shall be advised of this right as soon as practicable after the imminent danger has passed.

(d) As soon as practicable after the arrest is effected, custody of the person arrested should be transferred to other Federal law enforcement personnel (*e.g.*, U.S. Marshals or FBI agents) or to local law enforcement personnel, as appropriate, in order to ensure that the person is brought before a magistrate without unnecessary delay.

(e) Ordinarily, the person arrested shall not be questioned or required to sign written statements unless such questioning is:

(1) Necessary to establish the identity of the person arrested and the purpose for which such person is within or upon the SPR;

(2) Necessary to avert an immediate threat to security or safety (*e.g.*, to locate a bomb); or

(3) Authorized by other Federal law enforcement personnel or local law enforcement personnel responsible for investigating the alleged crime.

§ 1049.6 Exercise of arrest authority—Use of non-deadly force.

(a) When a Protective Force Officer is authorized to make an arrest as provided in the Act, the Protective Force Officer may use only that degree of non-deadly force that is reasonable and necessary to apprehend and arrest the suspect in order to prevent escape or to defend the Protective Force Officer or other persons from what the Officer reasonably believes to be the use or threat of imminent use of non-deadly force by the suspect. Verbal abuse by the suspect, in itself, is not a basis for the use of non-deadly force by a Protective Force Officer under any circumstances.

(b) Protective Force Officers should consult the local DOE Office of Chief Counsel and contractor legal counsel for additional guidance on the use of non-deadly force in the exercise of arrest authority, as appropriate.

§ 1049.7 Exercise of arrest authority—Use of deadly force.

(a) The use of deadly force is authorized only under exigent circumstances where the Protective Force Officer reasonably believes that such force is necessary to:

(1) Protect himself from an imminent threat of death or from serious bodily harm;

(2) Protect any person or persons in or upon the SPR from an imminent threat of death or serious bodily harm.

(b) If circumstances require the use of a firearm by a Protective Force Officer, the Officer shall give a verbal warning (*e.g.*, an order to halt), if feasible. A Protective Force Officer shall not fire warning shots under any circumstances.

§ 1049.8 Training of SPR Protective Force Officers and qualification to carry firearms.

(a) Protective Force Officers shall successfully complete training required by applicable Department of Energy orders prior to receiving authorization to carry firearms. The Department of Energy Office of Safeguards and Security shall approve the course.

(b) Prior to initial assignment to duty, Protective Force Officers shall successfully complete a basic qualification training course which equips them with at least the minimum level of competence to perform tasks associated with their responsibilities. The basic course shall include the following subject areas:

(1) Legal authority, including use of deadly force and exercise of limited arrest authority;

(2) Security operations, including policies and procedures;

(3) Security tactics, including tactics for Protective Force Officers acting alone or as a group;

(4) Use of firearms, including firearms safety and proficiency with all types of weapons expected to be used;

(5) Use of non-deadly weapons, weapon-less self-defense, and physical conditioning;

(6) Use of vehicles, including vehicle safety in routine and emergency situations;

(7) Safety, first aid, and elementary firefighting procedures;
(8) Operating in such a manner as to preserve SPR sites and facilities;
(9) Communications, including methods and procedures.

(c) After completing training, and receiving the appropriate security clearance, Protective Force Officers shall be authorized to carry firearms and exercise limited arrest authority. Protective Force Officers shall receive an identification card, which must be carried whenever on duty and whenever armed.

(d) On an annual basis, each Protective Force Officer must successfully complete training sufficient to maintain at least the minimum level of competency required for the successful performance of all assigned tasks identified for Protective Force Officers.

(e) Protective Force Officers shall be qualified in the use of firearms by demonstrating proficiency in the use of firearms on a semiannual basis prior to receiving authorization to carry firearms. Protective Force Officers shall demonstrate proficiency in the use of all types of weapons expected to be used while on duty under both day and night conditions. In demonstrating firearms proficiency, Protective Force Officers shall use firearms of the same type and barrel length as firearms used by Protective Force Officers while on duty, and the same type of ammunition as that used by Protective Force Officers on duty. Before a Protective Force Officer is qualified in the use of firearms, the Officer shall complete a review of the basic principles of firearms safety.

(f) Protective Force Officers shall be allowed two attempts to qualify in the use of firearms. Protective Force Officers shall qualify in the use of firearms within six months of failing to qualify. If an Officer fails to qualify, the Officer shall complete a remedial firearms training program. A Protective Force Officer who fails to qualify in the use of firearms after completion of a remedial program, and after two further attempts to qualify shall not be authorized to carry firearms or to exercise limited arrest authority.

§ 1049.9 Firearms and firearms incidents.

(a) Protective Force Officers shall receive firearms of a type suitable to adequately protect persons and property within or upon the SPR. Firearms and ammunition shall be secured, inventoried, and maintained in accordance with applicable Department of Energy orders, when not in use.

(b) The authority of a Protective Force Officer to carry firearms and to exercise limited arrest authority shall be suspended if the Officer participates in an incident involving the use of firearms. In such circumstances, the Officer shall be assigned to other duties, pending completion of an investigation.

(c) Incidents involving the discharge of firearms shall be reported to the Department of Energy Headquarters Emergency Operations Center immediately, and to the SPR Project Management Office Security Division within 24 hours. The Strategic Petroleum Reserve Project Manager shall appoint a committee to investigate the incident.

§ 1049.10 Disclaimer.

These guidelines are set forth solely for the purpose of internal Department of Energy guidance. These guidelines do not, and are not intended to, and may not be relied upon to, create any substantive or procedural rights enforceable at law by any party in any matter, civil or criminal. These guidelines do not place any limitations on otherwise lawful activities of Protective Force Officers or the Department of Energy.

[FR Doc. 91-27800 Filed 11-19-91; 8:45 am]
BILLING CODE 6450-01-M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 91-AWS-07; Amdt. 39-8100; AD 91-24-13]

Airworthiness Directives; Sikorsky Aircraft Model S-76A Helicopters

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts a new airworthiness directive (AD), applicable to all Sikorsky Aircraft Model S-76A helicopters, which supersedes an existing AD. This amendment requires repetitive inspections of the vertical pylon to detect cracking in the forward spar components, but limits these inspections to only those helicopters which have not had the forward spar reinforced with steel straps and a one-piece doubler. This amendment is needed to prevent crack growth in unmodified spars which could result in loss of control of the helicopter and to eliminate spar inspection requirements for helicopters with strengthened spars.

EFFECTIVE DATE: December 20, 1991.

ADDRESSES: The applicable service bulletins may be obtained from Sikorsky Aircraft, 600 Main Street, Stratford, Connecticut 06601-1381, or may be examined in the Rules Docket, Office of the Assistant Chief Counsel, FAA, 4400 Blue Mound Road, Building 3B, room 158, Forth Worth, Texas, 76193-0007.

FOR FURTHER INFORMATION CONTACT: Richard B. Noll, Boston Aircraft Certification Office, Engine and Propeller Directorate, Aircraft Certification Service, FAA, 12 New England Executive Park, Burlington, Massachusetts, 01803, telephone (617) 273-7111.

SUPPLEMENTARY INFORMATION: A proposal to amend Part 39 of the Federal Aviation Regulations by superseding AD 83-17-07, Amendment 39-4711 (48 FR 39052), August 29, 1983), as amended by Amendment 39-5017 (50 FR 15099, April 17, 1985), and Amendment 39-5332 (51 FR 24134, July 2, 1986), which is applicable to Sikorsky Aircraft Model S-76A helicopters, was published in the **Federal Register** on April 25, 1991 (56 FR 19044). The proposal limits repetitive inspections of the vertical pylon forward spar of Sikorsky Model S-76A helicopters to those helicopters which have not had the forward spar reinforced with steel straps and a one-piece doubler.

AD 83-17-01, as amended, currently requires a repetitive inspection for cracks in the vertical pylon forward spar caps and web on all Sikorsky S-76A helicopters. The FAA has determined that a modification designed by the manufacturer to add steel straps to the forward spar caps and a one-piece doubler to the forward spar web provides a level of safety for which repetitive inspections are no longer necessary. Therefore, the FAA is superseding AD 83-17-07 by changing the applicability statement to exclude any Sikorsky S-76A helicopters that have this modification installed.

Interested persons have been afforded an opportunity to participate in the making of this amendment. One comment was received in which a manufacturer indicated concurrence with the proposed amendment. The proposal is adopted without any changes.

The regulations adopted herein will not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, in accordance with Executive Order 12612, it is determined that this final rule does not have sufficient federalism implication to

warrant the preparation of a Federalism Assessment.

The FAA has determined that this regulation is relieving in nature and imposes no additional cost to any person. Therefore, for the reasons discussed above, I certify that this action: (1) Is not a "major rule" under Executive Order 12291; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979); (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal; and (4) if promulgated, will not have a significant economic impact, positive or negative on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, and Safety.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me be the Administrator, the Federal Aviation Administration amends 14 CFR part 39 of the Federal Aviation Regulations as follows:

PART 39—[AMENDED]

1. The authority citation for part 39 continues to read as follows:

Authority: 49 U.S.C. 1354(a), 1421 and 1423; 49 U.S.C. 106(g); and 14 CFR 11.89.

§ 39.13 [Amended]

2. Section 39.13 is amended by removing Amendment 39–4711 (48 FR 39052, August 29, 1983), AD 83–17–07, as amended by Amendment 39–5017 (50 FR 15099, April 17, 1985) and Amendment 39–5332 (51 FR 24134, July 2, 1986), and by adding the following new airworthiness directive:

AD 91–24–13 **Sikorsky Aircraft:** Amendment 39–8100. Docket Number 91–ASW–07.

Applicability: All Sikorsky Aircraft Model S–76A helicopters, certificated in any category, equipped with forward spar cap angles, part numbers (P/N's 76201–05001–103 and 76201–05001–104, forward spar web, P/N 76201–05001–101, and forward spar web doubler, P/N 76201–001–107, and not equipped with Modification Kit 76070–20086 installed in accordance with Sikorsky Alert Service Bulletin No. 76–55–12, dated June 6, 1986.

Compliance: Required as indicated, unless already accomplished.

To prevent failure of the helicopter vertical pylon forward spar cap, web, and web doubler, accomplish the following:

(a) For helicopters that have attained 100 or more hours' time in service, comply with paragraph (c) within the next 25 hours' time in service after the effective date of this AD unless already accomplished within the last 25 hours' time in service, and thereafter at intervals not to exceed 50 hours' time in service from the last inspection.

(b) For helicopters that have not attained 100 hours' time in service on the effective date of this AD, comply with paragraph (c) before attaining 125 hours' time in service, and thereafter at intervals not to exceed 50 hours' time in service.

(c) Inspect for cracks in the forward spar cap angles, spar web, and web doubler and in repairs and reinforcements in the area of the tail rotor shaft cutout in the pylon forward spar and areas adjacent to the fuselage shear deck as follows:

(1) Remove the tail rotor drive shaft fairings in the vicinity of the vertical pylon, exposing the shear deck and vertical pylon forward spar.

(2) Clean all accessible areas around the tail rotor drive shaft cutout area in the vertical pylon forward spar using a clean cloth dampened with solvent P–D–680, Type II, or FAA-approved equivalent.

(3) Using a light, visually inspect the forward side of the spar for cracks in all areas adjacent to the shear deck attachment to the forward spar web and the web doubler.

(4) Using a light and mirror, visually inspect the aft side of the spar for cracks. Inspect through the tail rotor drive shaft cutout.

(5) If cracks are found in the spar web or spar web doubler or in their repair or reinforcement parts, accomplish the following:

(i) For each part, if multiple cracks are found or if a single crack equal to or in excess of 2½ inches in length is found, replace cracked parts prior to further flight with new parts of the same part number; or if not previously repaired or reinforced, incorporate a repair procedure contained in Sikorsky Overhaul and Repair Instructions (O&RI) 76200–014B, or later FAA-approved revisions, or an equivalent procedure approved as noted in paragraph (d) of this AD.

(ii) If a single crack is less than 2½ inches in length, visually inspect the part for crack length prior to the first flight of each day, and—

(A) Within 25 hours' time in service after finding a crack, replace or repair the part in accordance with paragraph (c)(5)(i), except

(B) Replace or repair the affected part in accordance with paragraph (c)(5)(i) before further flight, whenever the crack length reaches 2½ inches.

(6) If a crack is found in the spar cap angles, replace the cracked spar cap angles prior to further flight with a new spar cap angle of the same part number in accordance with Sikorsky Maintenance Manual SA 4047–76–2, or approved equivalent procedures as noted in paragraph (d) of this AD.

(7) Reinstall the tail rotor drive shaft fairings after the inspections and rework, as necessary, of paragraphs (c)(1) through (c)(6) are completed.

(d) Alternative inspections, repairs, modifications, or other means of compliance which provide an equivalent level of safety, may be used if approved by the Manager, Boston Aircraft Certification Office, FAA, New England Region, 12 New England Executive Park, Burlington, Massachusetts 01803.

(e) On request of an operator, an FAA maintenance inspector, subject to prior approval of the Manager, Boston Aircraft Certification Office, may extend the repetitive inspection interval specified in this AD if the request contains justifying data.

(f) This amendment (39–8100), AD 91–24–13, becomes effective December 20, 1991.

Issued in Fort Worth, Texas, on November 5, 1991.

James D. Erickson,

Manager, Rotorcraft Directorate, Aircraft Certification Service.

[FR Doc. 91–27876 Filed 11–19–91; 8:45 am]

BILLING CODE 4910–13–M

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14 CFR Part 71

[Airspace Docket No. 91–ASW–8]

Alteration of VOR Federal Airways; Lafayette, LA

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment alters the descriptions of several Federal airways located in the vicinity of Lafayette, LA. The Lafayette VOR has been relocated to the Lafayette Regional Airport. This action realigns all airways affected by the relocation of the Lafayette VOR.

EFFECTIVE DATE: 0901 UTC, January 9, 1992.

FOR FURTHER INFORMATION CONTACT: Lewis W. Still, Airspace and Obstruction Evaluation Branch (ATP–240), Airspace-Rules and Aeronautical Information Division, Air Traffic Rules and Procedures Service, Federal Aviation Administration, 800 Independence Avenue SW., Washington, DC 20591; telephone: (202) 267–9250.

SUPPLEMENTARY INFORMATION:

History

On August 12, 1991, the FAA proposed to amend part 71 of the Federal Aviation Regulations (14 CFR part 71) to realign three VOR Federal airways located in the vicinity of Lafayette, LA (56 FR 38092). The Lafayette, LA, VOR had been relocated to lat. 30°11'37" N., long. 91°59'32" W., at the Lafayette Regional Airport. Interested parties were invited to participate in this rulemaking proceeding by submitting written comments on the proposal to the FAA. No comments objecting to the proposal were received. Except for editorial changes, this amendment is the same as that proposed in the notice. Section 71.123 of part 71 of the Federal Aviation

Regulations was republished in Handbook 7400.6G dated September 4, 1990.

The Rule

This amendment to part 71 of the Federal Aviation Regulations alters the descriptions of several Federal airways located in the vicinity of Lafayette, LA. The Lafayette VOR has been relocated to the Lafayette Regional Airport. This action realigns all airways affected by the relocation of the Lafayette VOR.

The FAA has determined that this regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. It, therefore—(1) is not a "major rule" under Executive Order 12291; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal. Since this is a routine matter that will only affect air traffic procedures and air navigation, it is certified that this rule, when promulgated, will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

List of Subjects in 14 CFR Part 71

Aviation safety, VOR Federal airways.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me, part 71 of the Federal Aviation Regulations (14 CFR part 71) is amended as follows:

PART 71—DESIGNATION OF FEDERAL AIRWAYS, AREA LOW ROUTES, CONTROLLED AIRSPACE, AND REPORTING POINTS

1. The authority citation for part 71 continues to read as follows:

Authority: 49 U.S.C. App. 1348(a), 1354(a), 1510; Executive Order 10854; 49 U.S.C. 106(g) (Revised Pub. L. 97-449, January 12, 1983); 14 CFR 11.69.

§ 71.123 [Amended]

2. § 71.123 is amended as follows:

V-194 [Amended]

By removing the words "Sabine Pass, TX; INT Sabine Pass 077° and Lafayette, LA, 254° radials; Lafayette; Baton Rouge, LA;" and substituting the words "Sabine Pass, TX; Lafayette, LA; Baton Rouge, LA;"

V-552 [Amended]

By removing the words "INT Lake Charles 064° and Lafayette, LA, 285° radials;" and substituting the words "INT Lake Charles 064° and Lafayette, LA 281° radials;"

V-559 [Revised]

From Lafayette, LA, INT Lafayette 016° and Baton Rouge, LA, 264° radials; to Baton Rouge.

Issued in Washington, DC, on November 7, 1991.

Harold W. Becker,

Manager, Airspace-Rules and Aeronautical Information Division.

[FR Doc. 91-27678 Filed 11-19-91; 8:45 am]

BILLING CODE 4910-13-M

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14 CFR Part 75

[Airspace Docket No. 91-AWP-4]

Alteration of Jet Route J-92

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment alters the description of Jet Route J-92 located between Klamath Falls, OR, and Mustang, NV. Originally, this route was proposed to include the segment between Yakima, WA, and Mustang, NV. The route as amended will not include, however, the segment between Yakima and Klamath Falls at this time. This amendment will improve the flow of traffic transiting the Reno, NV, terminal area and provide an alternate route for northbound departures. Traffic departing northbound and overflying this area are often issued this route by controllers to ensure separation from traffic using J-5. This action will adjust this route to establish the optimum use of the airspace in this region and reduce controller workload.

EFFECTIVE DATE: 0901 UTC, January 9, 1992.

FOR FURTHER INFORMATION CONTACT: Alton D. Scott, Airspace and Obstruction Evaluation Branch (ATP-240), Airspace-Rules and Aeronautical Information Division, Air Traffic Rules and Procedures Service, Federal Aviation Administration, 800 Independence Avenue SW., Washington, DC 20591; telephone: (202) 267-9252.

SUPPLEMENTARY INFORMATION:

History

On September 16, 1991, the FAA proposed to amend part 75 of the Federal Aviation Regulations (14 CFR part 75) to alter the description of J-92 located between Yakima, WA, and Mustang, NV (56 FR 46747). This airway segment has been reduced to include only the segment between Klamath Falls, OR, and Mustang, NV. Interested parties were invited to participate in this rulemaking proceeding by submitting written comments on the proposal to the FAA. No comments objecting to the proposal were received. Section 75.100 of part 75 of the Federal Aviation Regulations was republished in Handbook 7400.6G dated September 4, 1990.

The Rule

This amendment to part 75 of the Federal Aviation Regulations alters the description of Jet Route J-92 located between Klamath Falls, OR, and Mustang, NV. The establishment of this route will improve the flow of traffic transiting the Reno, NV, terminal area and provide an alternate route for northbound departures. Traffic departing northbound and overflying this area are often issued this route by controllers to ensure separation from traffic using J-5. This action will improve existing routes within this region while providing additional routes to accommodate increasing air traffic. This action will reduce pilot/controller communications.

The FAA has determined that this regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. It, therefore—(1) is not a "major rule" under Executive Order 12291; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal. Since this is a routine matter that will only affect air traffic procedures and air navigation, it is certified that this rule will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

List of Subjects in 14 CFR Part 75

Aviation safety, Jet routes.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me, part 75 of the Federal Aviation Regulations (14 CFR part 75) is amended, as follows:

PART 75—ESTABLISHMENT OF JET ROUTES AND AREA HIGH ROUTES

1. The authority citation for part 75 continues to read as follows:

Authority: 49 U.S.C. App. 1348(a), 1354(a), 1510; Executive Order 10854; 49 U.S.C. 106(g) (Revised Pub. L. 97-449, January 12, 1983); 14 CFR 11.69; 49 CFR 1.47.

§ 75.100 [Amended]

2. § 75.100 is amended as follows:

J-92 [Amended]

By removing the words "From Mustang, NV, via Coaldale, NV·" and substituting the words "From Klamath Falls, OR; via Mustang, NV; Coaldale, NV;".

Issued in Washington, DC, on November 12, 1991.

Harold W. Becker,

Manager, Airspace-Rules and Aeronautical Information Division.

[FR Doc. 91-27879 Filed 11-19-91; 8:45 am]

BILLING CODE 4910-13-M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

18 CFR Part 11

[Docket No. RM86-2-000]

Update of the Federal Energy Regulatory Commission's Fees Schedule for Annual Charges for the Use of Government Lands

Issued November 14, 1991.

AGENCY: Federal Energy Regulatory Commission, Energy.

ACTION: Final rule; update of Federal land use fees.

SUMMARY: On May 8, 1987, the Commission issued its final rule amending part 11 of its regulations (Order No. 469, 52 FR 18,201 May 14, 1987). The final rule revised the billing procedures for annual charges for administering Part I of the Federal Power Act, the billing procedures for charges for Federal dam and land use, and the methodology for assessing Federal land use charges.

In accordance with § 11.2(b) (18 CFR 11.2(b)) of the Commission's regulations, the Commission by is designee, the Executive Director, is updating its schedule of fees for the use of government lands. The yearly update is determined by adapting the most recent schedule of fees for the use of linear rights-of-way prepared by the United States Forest Service. Since the next fiscal year will cover the period from October 1, 1991, through September 30, 1992, the fees in this notice will become effective October 1, 1991. The fees will apply to fiscal year 1992 annual charges for the use of government lands.

EFFECTIVE DATE: October 1, 1991.

FOR FURTHER INFORMATION CONTACT: Olive J. Wallace, Chief, Revenue Assessments Branch, Office of the Executive Director, Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, (202) 219-2903.

SUPPLEMENTARY INFORMATION: In accordance with § 11.2, 18 CFR, the land values included in this document will be published in the **Federal Register**. In addition, the Commission provides all interested persons an opportunity to inspect or copy contents of this document during normal business hours in room 3104 at the Commission's Headquarters, 941 North Capitol Street, NE., Washington, DC 20426.

The Commission Issuance Posting System (CIPS), an electronic bulletin board service, provides access to the texts of formal documents issued by the Commission. CIPS is available at no charge to the user and may be accessed using a personal computer with a modem by dialing (202) 208-1397. To access CIPS, set your communications software to use 300, 1200, or 2400 baud, full duplex, no parity, 8 data bits, and 1 stop bit. The full text of this order will be available on CIPS for 30 days from the date of issuance. The complete text on diskette in WordPerfect format may also be purchased from the Commission's copy contractor, La Dorn Systems Corporation, also located in room 3104, 941 North Capitol Street, NE., Washington, DC 20426.

George L.B. Pratt,

Executive Director.

List of Subjects in 18 CFR Part 11

Electric power, Reporting and recordkeeping requirements.

Accordingly, the Commission, effective October 1, 1991, amends part 11 of Chapter I, title 18 of the Code of Federal Regulations, as set forth below.

PART 11—[AMENDED]

1. The authority citation for part 11 continues to read as follows:

Authority: 16 U.S.C. 791a-825r; 42 U.S.C. 7101-7352; E.O. 12009, 3 CFR 1978 Comp., p. 142.

2. In part 11, appendix A is revised to read as follows:

FEE SCHEDULE FOR FY 1992

State and county	Rate per acre
Alabama: All counties	$21.43
Arkansas: All counties	16.08
Arizona:	
Apache, Cochise, Gila, Graham, La Paz, Mohave, Navajo, Pima, Yavapai, Yuma, Coconino north of Colorado River	5.36
Coconino south of Colorado River, Greenlee, Maricopa, Pinal, Santa Cruz	21.43

FEE SCHEDULE FOR FY 1992—Continued

State and county	Rate per acre
California:	
Imperial, Inyo, Lassen, Modoc, Riverside, San Bernardino	10.71
Siskiyou	16.08
Alameda, Alpine, Amador, Butte, Calaveras, Colusa, Contra Costa, Del Norte, El Dorado, Fresno, Glenn, Humboldt, Kern, Kings, Lake, Madera, Mariposa, Mendocino, Merced, Mono, Napa, Nevada, Placer, Plumas, Sacramento, San Benito, San Joaquin, Santa Clara, Shasta, Sierra, Solano, Sonoma, Stanislaus, Sutter, Tehama, Trinity, Tulare, Tuolumne, Yolo, Yuba	26.79
Los Angeles, Marin, Monterey, Orange, San Diego, San Francisco, San Luis Obisop, San Mateo, Santa Barbara, Santa Cruz, Ventura	32.16
Colorado:	
Adams, Arapahoe, Bent, Cheyenne, Crowley, Elbert, El Paso, Huerfano, Kiowa, Kit Carson, Lincoln, Logan, Moffat, Montezuma, Morgan, Pueblo, Sedgwick, Washington, Weld, Yuma	5.36
Baca, Dolores, Garfield, Las Animas, Mesa, Montrose, Otero, Prowers, Rio Blanco, Routt, San Miguel	10.71
Alamosa, Archuleta, Boulder, Chaffee, Clear Creek, Conejos, Costilla, Custer, Denver, Delta, Douglas, Eagle, Fremont, Gilpin, Grand, Gunnison, Hinsdale, Jackson, Jefferson, Lake, La Plata, Larimer, Mineral, Ouray, Park, Pitkin, Rio Grande, Saguache, San Juan, Summit, Teller	21.43
Connecticut: All counties	5.36
Florida:	
Baker, Bay, Bradford, Calhoun, Clay, Columbia, Dixie, Duval, Escambia, Franklin, Gadsden, Gilchrist, Gulf, Hamilton, Holmes, Jackson, Jefferson, Lafayette, Leon, Liberty, Madison, Nassau, Okaloossa, Santa Rosa, Suwannee, Taylor, Union, Wakulla, Walton, Washington	32.16
All other counties	53.59
Georgia: All counties	32.16
Idaho:	
Cassia, Gooding, Jerome, Lincoln, Minidoka, Oneida, Owyhee, Power, Twin Falls	5.36
Ada, Adams, Bannock, Bear Lake, Benewah, Bingham, Blaine, Boise, Bonner, Bonneville, Boundary, Butte, Camas, Canyon, Caribou, Clark, Clearwater, Custer, Elmore, Franklin, Fremont, Gem, Idaho, Jefferson, Kootenai, Latah, Lemhi, Lewis, Madison, Nez Perce, Payette, Shoshone, Teton, Valley, Washington	16.08
Kansas:	
All other counties	5.36
Morton	10.71
Illinois: All counties	16.08
Indiana: All counties	26.79
Kentucky: All counties	16.08
Louisiana: All counties	32.16
Maine: All counties	16.08
Michigan:	
Alger, Baraga, Chippewa, Dickinson, Delta, Gogebic, Houghton, Iron, Keweenaw, Luce, Mackinac, Marquette, Menominee, Ontonagon, Schoolcraft	16.08
All other counties	21.43

FEE SCHEDULE FOR FY 1992—Continued

State and county	Rate per acre
Minnesota: All counties	16.08
Mississippi: All counties	21.43
Missouri: All counties	16.08
Montana:	
Big Horn, Blaine, Carter, Cascade, Chouteau, Custer, Daniels, McCone, Meagher, Dawson, Fallon, Fergus, Garfield, Glacier, Golden Valley, Hill, Judith Basin, Liberty, Musselshell, Petroleum, Phillips, Pondera, Powder River, Prairie, Richland, Roosevelt, Rosebud, Sheridan, Teton, Toole, Treasure, Valley, Wheatland, Wibaux, Yellowstone	5.36
Beaverhead, Broadwater, Carbon, Deer Lodge, Flathead, Gallatin, Granite, Jefferson, Lake, Lewis & Clark, Lincoln, Madison, Mineral, Missoula, Park, Powell, Ravalli, Sanders, Silver Bow, Stillwater, Sweet Grass	16.08
Nebraska: All counties	5.36
Nevada:	
Churchill, Clark, Elko, Esmeralda, Eureka, Humboldt, Lander, Lincoln, Lyon, Mineral, Nye, Pershing, Washoe, White Pine	2.68
Carbon City, Douglas, Storey	26.79
New Hampshire: All counties	16.08
New Mexico:	
Chaves, Curry, De Baca, Dona Ana, Eddy, Grant, Guadelupe, Harding, Hidalgo, Lea, Luna, McKinley, Otero, Quay, Roosevelt, San Juan, Socorro, Torrance	5.36
Rio Arriba, Sandoual, Union	10.71
Bernalillo, Catron, Cibola, Colfax, Lincoln, Los Alamos, Mora, San Miguel, Santa Fe, Sierra, Taos, Valencia	21.43
New York: All counties	21.43
North Carolina: All counties	32.16
North Dakota: All counties	5.36
Ohio: All counties	21.43
Oklahoma	
All other counties	5.36
Beaver, Cimarron, Roger Mills, Texas	10.71
Le Flore, McCurtain	16.08
Oregon:	
Harney, Lake, Malheur	5.36
Baker, Crook, Deschutes, Gilliam, Grant, Jefferson, Klamath, Morrow, Sherman, Umatilla, Union, Wallowa, Wasco, Wheeler	10.71
Coos, Curry, Douglas, Jackson, Josephine	16.08
Benton, Clackamas, Clatsop, Columbia, Hood River, Lane, Lincoln, Linn, Marion, Multnomah, Polk, Tillamock, Washington, Yamhill	21.43
Pennsylvania: All counties	21.43
Puerto Rico: All	32.16
South Dakota:	
Butte, Custer, Fall River, Lawrence, Mead, Pennington	16.08
All other counties	5.36
South Carolina: All counties	32.16
Tennessee: All counties	21.43
Texas:	
Culberson, El Paso, Hudspeth	5.36
All other counties	32.16
Utah:	
Beaver, Box Elder, Carbon, Duchesne, Emery, Garfield, Grand, Iron, Jaub, Kane, Millard, San Juan, Tooele, Uintah, Wayne	5.36
Washington	10.71

FEE SCHEDULE FOR FY 1992—Continued

State and county	Rate per acre
Cache, Daggett, Davis, Morgan, Piute, Rich, Salt Lake, Sanpete, Sevier, Summit, Utah, Wasatch, Weber	16.08
Vermont: All counties	21.43
Virginia: All counties	21.43
Washington:	
Adams, Asotin, Benton, Chelan, Columbia, Douglas, Franklin, Garfield, Grant, Kittitas, Klickitat, Lincoln, Okanagan, Spokane, Walla Walla, Whitman, Yakima	10.71
Ferry, Pend Oreille, Stevens	16.08
Callam, Clark, Cowlitz, Grays Harbor, Island, Jefferson, King, Kitsap, Lewis, Mason, Pacific, Pierce, San Juan, Skagit, Skamania, Snohomish, Thurston, Wahkiakum, Whatcom	21.43
West Virginia: All counties	21.43
Wisconsin: All counties	16.08
Wyoming:	
Albany, Campbell, Cargon, Converse, Goshen, Hot Springs, Johnson, Laramie, Lincoln, Natrona, Niobrara, Platte, Sheridan, Sweetwater, Fremont, Sublette, Uinta, Washakie	5.36
Big Horn, Crook, Park, Teton, Weston	16.08
All other zones	6.38

[FR Doc. 91-27841 Filed 11-19-91; 8:45 am]

BILLING CODE 6717-01-M

18 CFR Part 381

[Docket No. RM82-25-003, et al.]

Fees Applicable to Producer Matters Under the Natural Gas Act, et al; Order Denying Rehearing

Issued November 13, 1991.

AGENCY: Federal Energy Regulatory Commission (Commission).

ACTION: Final rule; order denying rehearing.

SUMMARY: The Commission is denying a request for rehearing of its 1989 annual update of its filing fees. (54 FR 12900 (March 29, 1989); FERC Stats. & Regs. Regulations Preambles 1986-90 ¶ 30, 850 (March 24, 1989).) Consistent with the Independent Offices Appropriation Act of 1952 and the Omnibus Budget Reconciliation Act of 1986, the Commission seeks to collect filing fees from those it regulates to reimburse the Commission for the costs it incurs in analyzing filings. This order denies a rehearing request by Public Systems objecting to the filing fees.

EFFECTIVE DATE: November 13, 1991.

FOR FURTHER INFORMATION CONTACT: Betty Toepfer, Office of the General Counsel, Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, (202) 208-2137.

SUPPLEMENTARY INFORMATION: In addition to publishing the full text of this document in the **Federal Register**, the Commission also provides all interested persons an opportunity to inspect or copy the contents of this document during normal business hours in room 3308, 941 North Capitol Street, NE., Washington, DC 20426.

The Commission Issuance Posting System (CIPS), an electronic bulletin board service, provides access to the texts of formal documents issued by the Commission. CIPS is available at no charge to the user and may be accessed using a personal computer with a modem by dialing (202) 208-1397. (If you are using a 9600 modem, dial (202) 208-1781.) To access CIPS, set your communications software to use 300, 1200 or 2400 bps, full duplex, no parity, 8 data bits, and 1 stop bit. The full text of this document will be available on CIPS for 30 days from the date of issuance. The complete text on diskette in WordPerfect format may also be purchased from the Commission's copy contractor, La Dorn Systems Corporation, also located in room 3308, 941 North Capitol Street, NW., Washington, DC 20426.

Before Commissioners: Martin L. Allday, Chairman; Charles A. Trabandt, Elizabeth Anne Moler, Jerry J. Langdon and Branko Terzic.

Fees Applicable to Producer Matters Under the Natural Gas Act

[Docket No. RM82-25-003]

Fees Applicable to the Natural Gas Policy Act

[Docket No. RM82-30-004]

Fees Applicable to Natural Gas Pipelines

[Docket No. RM82-31-008]

Fees Applicable to General Activities

[Docket No. RM82-35-002]

Fees Applicable to Electric Utilities, Cogenerators and Small Power Producers

[Docket No. RM82-38-010]

Fees Applicable to Natural Gas Pipeline Rate Matters

[Docket No. RM83-2-004]

Revisions to the Purchased Gas Adjustments Regulations

[Docket No. RM86-14-002]

Revision of Rate Schedule Filings Under Sections 205 and 206 of the Federal Power Act

[Docket No. RM87-26-002]

Revision of Filing Fees for Natural Gas Rate and Tariff Filings

[Docket No. RM88-28-001]

Order Denying Rehearing

Issued November 13, 1991.

Background

The Commission is authorized under the Independent Offices Appropriation Act of 1952 (IOAA) to establish fees for the services and benefits it provides.[1] Under the Omnibus Budget Reconciliation Act of 1986 (OBRA) [2] the Commission is authorized to "assess and collect fees and annual charges in any fiscal year in amounts equal to all of the costs incurred by the Commission in that fiscal year." Consistent with the standards of the IOAA and the OBRA, the Commission seeks to collect filing fees that reimburse the Commission for the costs it incurs in analyzing filings.

In Order No. 435, the Commission continued a three-class filing fee system for rate filings under sections 205 and 206 of the Federal Power Act. [3] Class 1 filings were those filings with no rate impact or involving only a rate decrease. Class 2 filings were those filings having an impact on rates but not supported by Period II cost of service data. Class 3 filings were those filings involving rate increases and which were supported by Period II cost of service data. [4]

In 1988, in Order No. 494, the Commission replaced the three-class filing fee system with a two-class filing fee system by combining those filings formerly classified as Class 2 or Class 3 into one class, subject to a single filing fee of $5,780. Filings previously defined as Class 1 filings were not subject to any fee.[5]

Subsequently, on December 10, 1990, the Commission issued Order No. 527,[6] which established a five-class filing fee system, a 60 percent across-the-board reduction in filing fees for utilities other than "major" utilities as well as for smaller, shorter-term transactions, and lastly, a 50 percent reduction in filing fees for the new Class V rate filings (*i.e.*, those filings that are rate increases supported by Period II data).[7]

Public Systems' Request for Rehearing

On April 21, 1989, Public Systems [8] filed an appeal of staff action (originally styled as an application for rehearing) [9] of the above-mentioned 1989 annual update of the filing fees. In requesting rehearing, Public Systems asks the Commission to eliminate or reduce the filing fee for the second of the two classes of electric rate schedule filings under Order No. 494 [10] on the grounds that it is neither cost-justified nor fair, as required by the IOAA, when applied to, *inter alia*, "small-scale and economy transactions in electricity or to transactions which, although taking the form of a new contract, involve sales or service on terms and conditions substantially similar to ones already reviewed by the Commission."

Discussion

For the reasons discussed below, the Commission denies the request for rehearing filed by Public Systems. Initially, before turning to the specifics of Public Systems' arguments, we note that the filing fee regulations that Public Systems objects to in its challenge to the 1989 annual update are no longer in effect, and, in fact, the two-class filing fee system that existed at that time has also been superseded.[11] As a consequence, Public Systems' concerns have been overtaken by events and are to a large degree now moot. In addition, we also note that, subsequent to its

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[1] 31 U.S.C. 9701 (1988). The principal administrative interpretation of the IOAA is the Office of Management and Budget's Circular A–25, first issued September 23, 1959. Circular A–25 provides that a fee should be assessed against each identifiable recipient of a measurable unit or amount of government service or property from which the recipient derives a special benefit. See *FPC* v. *New England Power Company*, 415 U.S. 345, 349–51 (1974) (expressing general approval of Circular A–25's interpretation of the IOAA).

See also Revision of Rate Schedule Filings under Sections 205 and 206 of the Federal Power Act, Order No. 527, FERC Stats. & Regs. Regulations Preambles 1986–90 ¶ 30,900 at 31,822 (1990) (discussing IOAA), *order on rehearing*, Order No. 527–A, III FERC Stats. & Regs. ¶ 30,912 (1991).

[2] 42 U.S.C. 7871(a)(1) (1988). The Commission established annual charges in Annual Charges Under the Omnibus Budget Reconciliation Act of 1986, Order No. 472, FERC Stats. & Regs. Regulations Preambles 1986–90 ¶ 30,746, *clarified*, Order No. 472–A, FERC Stats. & Regs. Regulations Preambles 1986–90 ¶ 30,750, *order on reh'g*, Order No. 472–B, FERC Stats. & Regs. Regulations Preambles 1986–90 ¶ 30,767 (1987). All costs are recovered through a combination of filing fees and annual charges. All costs recovered through filing fees are subtracted from the costs that are otherwise to be collected by means of annual charges.

[3] Fees Applicable to Electric Utilities, Cogenerators and Small Power Producers, Order No. 435, FERC Stats. & Regs. Regulations Preambles 1982–85 ¶ 30,663 (1988), *order on reh'g*, Order No. 435–A, FERC Stats. & Regs. Regulations Preambles 1986–90 ¶ 30,713 (1986).

Prior to Order No. 435, and based on the general complexity of such filings, the Federal Power Commission had established three categories of filings for purposes of assessing filing fees under sections 205 and 206 of the Federal Power Act: Nominal rate schedule filings; moderately complex rate schedule filings; and rate increase filings. Revision of Existing and Establishment of New Schedules to be Paid by Electric Public Utility Companies and Natural Gas Companies for Miscellaneous Services Rendered by the Federal Power Commission, 45 FPC 440, 449–50 (1971). In addition to providing an annual update of the amounts for the three fee categories, Order No. 435 revised the definitions for the three fee categories, which had previously been defined largely (though not exclusively) through examples.

[4] Order No. 435 established the following fees: (1) Class 1: $1,400; (2) Class 2: $2,900; and (3) Class 3: $15,500.

The 1987 annual update decreased the Class 1 filing fee from $1,400 to $1,100, increased the filing fee for Class 2 from $2,900 to $3,100 and decreased the filing fee for Class 3 from $15,500 to $8,900. Fees Applicable to Producer Matters, Natural Gas Pipeline Matters, etc., FERC Stats. & Regs. Regulations Preambles 1986–90 ¶ 30,734 (1987).

[5] Filing Fees Under the Independent Offices Appropriations Act of 1952, Order No. 494, FERC Stats. & Regs. Regulations Preambles 1986–90 ¶ 30,809, order on reh'q, Order No. 494–A, 43 FERC ¶ 61,464 (1988), *appeal remanded*, No. 88–1545 (D.C. Cir. remanded August 11, 1989).

In the 1989 annual update under the Order No. 494 fees, the update Public Systems challenges, the filing fee for the second of the two classes was increased from $5,780 to $6,630. Update of Commission Filing Fees, FERC Stats. & Regs. Regulations Preambles 1986–90 ¶ 30,850 (1989). In the 1990 annual update under the Order No. 494 fees, the filing fee for the second of the two classes was decreased from $6,630 to $6,120. Annual Update of Filing Fees, FERC Stats. & Regs. Regulations Preambles ¶ 30,885 (1990). Consequently the year-to-year changes in the filing fees were simply not so dramatic as Public Systems alleges. See Public Systems' Request for Rehearing at 8.

[6] Revision of Rate Schedule Filings Under Sections 205 and 206 of the Federal Power Act, Order No. 527, FERC Stats. & Regs. Regulations Preambles 1986–90 ¶ 30,900 (1990), order on reh'q, Order No. 527–A, III FERC Stats. & Regs. ¶ 30,912 (1991).

[7] The 50 percent reduction is relative to the actual average cost incurred by the Commission in processing the average rate increase filing which is accompanied by Period II data.

[8] Public Systems consists of: The American Public Power Association, the National Rural Electric Cooperative Association; the Florida Municipal Power Agency; the Michigan Municipal Electric Association; the City of Azusa, California; the City of Colton, California Electric Department; the Braintree, Massachusetts Electric Light Department; the Chicopee, Massachusetts Municipal Lighting Plant; the Holyoke, Massachusetts Gas & Electric Department; the North Attleborough, Massachusetts Electric Department; the South Hadley, Massachusetts Electric Light Department; and the Burlington, Vermont Electric Department.

[9] At the time of filing, Public Systems' filing was correctly deemed an appeal of staff action, despite being styled as an application for rehearing. However, on December 3, 1990, the Commission issued Streamlining Commission Procedures for Review of Staff Action, Order No. 530, FERC Stats. & Regs. Regulations Preambles 1986–90 ¶ 30,906 (1990), *order on reh'g*, Order No. 530–A, III FERC Stats. & Regs. ¶ 30,914 (1991). Order No. 530 deemed virtually all appeals of staff action pending as of December 3, 1990 (including Public Systems' April 21, 1989 filing) to be requests for rehearing.

[10] As noted *supra*, under Order No. 494 only this class of electric rate schedule filings was assessed a fee.

[11] A request for refunds is apparently part of the relief requested by Public Systems. See Public Systems' Request for Rehearing at 2, 8, 19. However, Public Systems does not identify the particular proceedings and dockets in which it believes a refund is appropriate (beyond three examples which it cites without reference to docket numbers in support of its claim, discussed below, that filing fees can make some transactions uneconomical). Moreover, Public Systems does not identify whether the filing fees in each such proceeding and docket have been passed through to ratepayers and both what filing fees Public Systems believes should have been charged and what amounts should be refunded.

request for rehearing at issue here, Public Systems raised essentially the same arguments in the proceeding in which the current filing fee system was adopted (Order Nos. 527 and 527–A), and that the Commission addressed these arguments.

Public Systems' principal objection is to the Commission's charging the full filing fee that would otherwise be required for small-scale and economy transactions and for sales or services on terms and conditions substantially similar to sales or services already accepted or approved.[12] Public Systems argues that the Commission's charging the full filing fee in such circumstances makes transactions that would otherwise be economically beneficial uneconomical.[13]

As noted above, with the issuance of Order No. 527 on October 10, 1990, to be effective on October 11, 1990, and the adoption of the present five-class filing fee system with, *inter alia*, a 60 percent categorical reduction in filing fees for certain smaller, shorter-term transactions, Public systems' concerns are largely mooted on a prospective basis.[14]

In addition, Public Systems' argument in its request for rehearing is essentially an argument in favor of the Commission's charging no filing fees at all. Public Systems argues that the filing fees will make some transactions uneconomic. As the Commission has repeatedly explained—most recently in Order Nos. 527 and 527–A [15] and in a series of subsequent cases [16]—the Commission is authorized to establish and collect fees for the services and benefits it provides and the fees associated with rate filings, traditionally as well as currently, have been set based on the work associated with the review of such filings.[17] To adopt the conclusion that Public systems' argument would seemingly justify, *i.e.*, to abolish filing fees for rate filings altogether, would effectively deny the Commission the right to do what the IOAA and the OBRA expressly authorize the Commission to do, *i.e.*, to collect filing fees. It would also, due to the relationship between filing fees and annual charges, lead to a reallocation of costs among Commission-jurisdictional entities, increasing the costs to all such entities, and, to the extent they pass annual charges through to their ratepayers, to ratepayers including Public Systems' members.[18]

Insofar as Public Systems argues that the 1989 annual update of the filing fees was not cost-based, and that administrative convenience is not a rationale to be considered in setting fees, Public Systems is incorrect. First, the 1989 annual update expressly noted that our regulations require an annual update of filing fees according to a formula based on costs.[19] Moreover, the 1989 annual update expressly stated that the updated filing fees were established based on the Commission's costs. More specifically, the Commission explained that the update was "based on data from the previous fiscal year" and also that the updated filing fees wee established "on the basis of the commission's cost, completion and worktime data for fiscal year 1988." [20]

The update at issue in *Raton Gas Transmission Company* v. *FERC*, 852 F.2d 612 (DC Cir. 1988), referenced the same Commission regulation that the commission referenced here, but also specified only that the update used data from the Commission's "new Time Distribution Reporting System (TDRS)" to calculate the updated fees.[21] The court in Raton explained that, "[w]hile ordinarily that explanation might suffice," the size of the increase required more, and the court did not know whether the increase was due to a rise in costs, a change in the size or complexity of the filings, or other reasons.[22] Here, in contrast, as noted above, the Commission identified more precisely the factors that went into recalculating the filing fees. Moreover, the increase at issue in Raton involved an increase from $2,300 to $4,000, or an increase of approximately 75 percent.[23] In contrast, the increase at issue here is only $850, an increase of approximately 15 percent.

Second, administrative convenience is a rationale that may appropriately be considered by the Commission in developing its filing fee system (*e.g.*, in establishing the number of classes and setting the boundaries of each class) and thus in setting filing fees.[24] As we have noted most recently in Order No. 527, any filing fee system regardless of how many different classes it creates will necessarily involve the grouping of individual rate filings that are not identical and do not require the same amount of time and effort to analyze.[25] Only direct billing on a rate filing by rate filing basis would ensure an absolute matching of the filing fee with the costs of analyzing the filing.[26] The precise number of classes and the boundaries dividing different classes is inherently not a matter susceptible of ready determination using some absolute scale or standard but rather is a matter of discretion based on a balancing of a number of factors including the ease of administering one system over another.

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[12] As to this latter category of transactions, every rate filing, including those that are substantially similar to filings previously accepted or approved, is separately reviewed and evaluated. Accordingly, costs are incurred and the charging of a filing fee is appropriate. See FERC Stats. & Regs. Regulations Preambles 1986–90 at 31,826; *cf. id.* at 31,825 (filings made as a result of a settlement are reviewed and therefore a filing fee is appropriate).

Public Systems also briefly suggests that smaller utilities should be charged lower filing fees. In fact, the Commission has adopted lower filing fees on a prospective basis in Order No. 527. FERC Stats. & Regs. Regulations Preambles 1986–90 at 31,825. However, we also note that the Commission's filing fee requirements and the data required to be submitted do not vary with the size of the filing utility. *E.g.*, 18 CFR 35.13 (1991). Rather, they vary depending on the size and type of transaction. Consequently, a smaller utility does not necessarily file less data than a larger utility, and the review and evaluation undertaken by the Commission for a smaller utility's filing is not necessarily less than for a larger utility's filing.

[13] To a large degree, Public Systems' objections seem to be motivated by utilities passing through the cost of the filing fees to their ratepayers. That this may be the case does not persuade us to change our filing fees, for reasons given at greater length elsewhere. See, *e.g.*, III FERC Stats. & Regs. at 30,077.

[14] FERC Stats. & Regs. Regulations Preambles 1986–90 at 31,825–26; III FERC Stats. & Regs. at 30,076–77.

[15] FERC Stats. & Regs. Regulations Preambles 1986–90 at 31,822; III FERC Stats. & Regs. at 30,075.

[16] *E.g.*, Southwestern Electric Power Company, 54 FERC ¶ 61,183 at 61,552 (1991); Central Illinois Public Service Company, 54 FERC ¶ 61,170 at 61,517 (1991).

[17] *E.g.*, FERC Stats. & Regs. Regulations Preambles 1986–90 at 31,822; 31,825, 31,826–27; III FERC Stats. & Regs. at 30,075; 54 FERC at 61,552 & n.8; 54 FERC at 61,517 & n.16.

[18] See, *e.g.*, III FERC Stats. & Regs. at 30,076–77.

[19] FERC Stats. & Regs. Regulations Preambles 1986–90 at 31,355 & n.3; 18 CFR 381.104 (1988); see also 18 CFR 381.104 (1991).

[20] FERC Stats. & Regs. Regulations Preambles 1986–90 at 31,355.

[21] Natural Gas Companies and Natural Gas Policy Act; Fees Applicable to Producer Matters, FERC Stats. & Regs. Regulations Preambles 1986–90 ¶ 30,685 at 30,126 (1986).

[22] 852 F.2d at 618.

[23] 852 F.2d at 614.

[24] *E.g.*, FERC Stats. & Regs. Regulations Preambles 1986–90 at 31,826–27; FERC Stats. & Regs. Regulations Preambles 1986–90 at 31,094–95; see also 852 F.2d at 618 ("Commission may properly have determined that the difficulty inherent in setting different fees for PGA Filings at varying levels of complexity outweighed any easing of the burden on utilities that would benefit from graduated fees").

[25] FERC Stats. & Regs. Regulations Preambles 1986–90 at 31,826–27. While the cost of evaluating the different filings that, under the prior three-class system, were separated into Class 2 and Class 3 could differ, so the cost of evaluating two particular Class 2 filings or two particular Class 3 filings could likewise differ.

[26] *Id.* However, such an approach could itself create substantial additional administrative costs that a filing fee system involving fewer classes would not create. *Id.*

Insofar as Public Systems also briefly seems to suggest that the filing fees established in the 1989 annual update of filing fees do not reflect the value of the service provided, because larger, longer-term transactions are subject to the same fee as smaller, shorter-term transactions, Public Systems is incorrect. The Commission has a statutory obligation to ensure that all rates charged to ratepayers are just and reasonable and not unduly discriminatory or preferential.[27] The Commission cannot and does not allow rates to become effective without evaluating whether they appear to be just and reasonable. The Commission's obligation does not vary with the size or duration of the transaction, and so the value of the Commission's action to both the filing utility and ratepayers does not change with the size or duration of the transaction.

Finally, insofar as Public Systems suggests that utilities, by insisting on separate transaction-by-transaction transmission contracts with separate filing fees rather than more general transmission tariffs with only one filing fee, can burden their competitors, such an argument does not justify a change in the filing fee system (and elimination of filing fees for rate schedule filings involving transmission). In the first instance, the Commission is authorized to charge filing fees for rate schedule filings, including transmission rate schedule filings, in order to recover the costs associated with the review of such filings. Moreover, the elimination of filing fees for rate schedule filings involving transmission would, because the filing fee system would not recover the Commission's costs, force a change in the Commission's annual charges which could, as noted above, increase the costs charged to ratepayers including Public Systems' members.[28] In addition, as the Commission noted in Order No. 527-A in response to the same argument, if Public Systems believes that such multiple rate schedule filings are anticompetitive, a complaint under section 206 of the Federal Power Act may be filed.[29]

We therefore conclude, for the foregoing reasons, that the request for rehearing of Public Systems should be denied.

The Commission Orders:

The request for rehearing filed by Public Systems in these dockets is hereby denied.

[27] 16 U.S.C. 824d, 824e (1988).

[28] See *supra* notes 14-17 and accompanying text; see III FERC Stats. & Regs. at 30,076-77.

[29] III FERC Stats. & Regs. at 30,077.

By the Commission.

Lois D. Cashell,

Secretary.

[FR Doc. 91-27842 Filed 11-19-91; 8:45 am]

BILLING CODE 6717-01-M

DEPARTMENT OF DEFENSE

Office of the Secretary

32 CFR Parts 287, 292, and 299

Freedom of Information Act Program

AGENCY: Office of the Secretary, DoD.

ACTION: Final rule amendment.

SUMMARY: This amendment revises the headings for 32 CFR parts 287, 292, and 299. The revisions are made to readily identify various Freedom of Information programs that have been codified in chapter I, title 32, Code of Federal Regulations.

EFFECTIVE DATE: November 20, 1991.

FOR FURTHER INFORMATION CONTACT: L.M. Bynum, Correspondence and Directives Directorate, Washington Headquarters Services, Pentagon, Washington, DC 20301-1155, telephone (703) 697-4111.

Accordingly, under the authority of 5 U.S.C. 552, 32 CFR chapter I, is amended as follows:

Parts 287, 292, and 299, are transferred to subchapter N.

PART 287—DEFENSE CONTRACT AUDIT AGENCY (DCA) FREEDOM OF INFORMATION ACT PROGRAM

2. The heading for part 287 is revised as set forth above.

PART 292—DEFENSE INTELLIGENCE AGENCY (DIA) FREEDOM OF INFORMATION ACT PROGRAM

3. The heading for part 292 is revised as set forth above.

PART 299—NATIONAL SECURITY AGENCY (NSA) FREEDOM OF INFORMATION ACT PROGRAM

4. The heading for part 299 is revised as set forth above.

Dated: November 14, 1991.

L.M. Bynum,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 91-27823 Filed 11-19-91; 8:45 am]

BILLING CODE 3810-01-M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[IL12-13-5321; FRL-4030-1]

Reconsideration of Certain Federal RACT Rules for Illinois

AGENCY: United States Environmental Protection Agency (USEPA).

ACTION: Notice of stay and reconsideration.

SUMMARY: Today's action announces a 3-month stay of certain Federal rules requiring reasonably available control technology (RACT) to control volatile organic compounds (VOCs) in the Illinois portion of the Chicago ozone nonattainment area (55 FR 26814, June 29, 1990). The effectiveness of the following rules, including the applicable compliance date, is stayed for three months, pending reconsideration: (1) the emission limitations and standards for paper coating operations only as they apply to Riverside Laboratories, Inc. (55 FR at 26868—874, codified at 40 CFR 52.741(e)); and (2) the "other emission sources" rule and the recordkeeping and reporting requirements for non-CTG sources only as they apply to Reynolds Metals Company (55 FR 26884—886, codified at 40 CFR 52.741(x) and (y)). USEPA is issuing this stay pursuant to Clean Air Act (CAA) section 307(d)(7)(B), 42 U.S.C. 7607(d)(7)(B), which provides the Administrator with authority to stay the effectiveness of a rule during reconsideration. In addition, USEPA is amending the regulation by which the Agency granted Viskase Corporation, Allsteel, Incorporated and General Motors Corporation an indefinite stay, by providing that USEPA will publish in the **Federal Register** its final decision upon reconsideration of certain RACT rules as they affect those sources. The reconsideration was the basis for the indefinite stay.

EFFECTIVE DATE: Effective November 6, 1991, those portions of the Federal RACT rules for the Illinois portion of the Chicago ozone nonattainment area, 40 CFR 52.741, as noted below, are stayed until February 6, 1991 for the identified parties: (1) The emission limitations and standards for paper coating operations only as they apply to Riverside Laboratories, Inc. (55 FR at 26868—874, codified at 40 CFR 52.741(e)); and (2) the "other emission sources" rule and the recordkeeping and reporting requirements for non-CTG sources only as they apply to Reynolds Metals Company (55 FR 26884-886, codified at 40 CFR 52.741(x) and (y)).

FOR FURTHER INFORMATION CONTACT: Randolph O. Cano, Regulation Development Branch (5AR–26), U.S. Environmental Protection Agency, Region V, Chicago, Illinois 60604, (312) 886–6036.

SUPPLEMENTARY INFORMATION:

I. Background

On April 1, 1987, the State of Wisconsin filed a complaint in the United States District Court for the Eastern District of Wisconsin seeking that USEPA, among other actions, revise the Illinois and Indiana ozone State implementation plans (SIPs) under section 110(c) and in conformance with section 172(b) and (c) of the CAA.

(*Wisconsin* v. *Reilly*, No. 87–C–0395, E.D. Wis. Sept. 22, 1989). As a result of a court-approved settlement agreement, signed by USEPA and the State of Illinois and Wisconsin on September 22, 1989, USEPA agreed to reduce emissions of VOCs, an ozone precursor, by promulgating Federal revisions to the VOC RACT rules contained in the Illinois SIP for ozone.

The settlement agreement set a tight deadline for the completion of the rulemaking, requiring USEPA to promulgate final revisions to correct the VOC RACT rules in the Illinois SIP by March 18, 1990. While that date was later extended to June 8, 1990, it left USEPA with little time to complete an especially demanding task.[1] On June 29, 1990, USEPA promulgated final federal rules (55 FR 26814) requiring RACT to control the emission of VOCs in six counties in the Chicago metropolitan area: Cook, DuPage, Kane, Lake, McHenry, and Will.

Subsequently, ten Petitioners filed petitions for review of USEPA's June 29, 1990, revisions to the Illinois SIP in the United States Court of Appeals for the Seventh Circuit. Riverside and Reynolds, the parties directly affected by today's action, were two of the initial Petitioners. On September 13, 1990, the Court, on its own motion, consolidated the ten petitions as *Illinois Environmental Regulatory Group ("IERG"), et. al.* v. *Reilly*, No. 90–2778. Since then, based on various motions, the Court has severed five petitions and part of one other petition from the consolidated case. Riverside remains one of the Petitioners in the consolidated case. Reynolds withdrew it petition and intervened in the action.

[1] For example, the rulemaking established regulatory requirements governing the emissions of approximately 1000 sources. In addition, USEPA reviewed approximately four linear feet of public comments prior to promulgation of the final rule.

Riverside and Reynolds have requested that USEPA consider promulgation of source-specific RACT limits for their facilities in lieu of the June 29, 1990 rules. To this end, each company has submitted to the Agency information in support of source-specific limits. In addition, both facilities also formally requested the Agency to reconsider the FIP rules in light of the new information they have presented since the rules were finalized. As a result, USEPA has decided to convene a proceeding for reconsideration to address each company's request pursuant to section 307(d)(7)(B) of the CAA, 42 U.S.C. 7607(d)(7)(B).

II. Rules To Be Stayed and Reconsidered

A. Riverside

On August 20, 1991, Riverside filed a petition for reconsideration with the Agency in which it contends that its economic status prevents the Federal rules from being RACT for its facility. Riverside further amended that petition on September 5, 1991. In support of that contention, Riverside has submitted new information to the Agency concerning its financial situation. It was impracticable for Riverside to submit this information during the comment period because much of this information concerned production, emission and economic data from 1990. This information did not become available until after the close of the comment period. Moreover, this information is of central relevance to the rulemaking because it suggests that the paper coating rule is not RACT for the Riverside facility at the present time because it is not economically feasible for Riverside to comply with the rule. Although USEPA has not completed review of this information, the Agency has determined that it provides a sufficient basis for reconsideration of the paper coating rule as it applies to Riverside. Therefore, USEPA will grant Riverside's request for reconsideration, and by today's action, USEPA is convening a proceeding for reconsideration of the paper coating rule as it applies to Riverside.

B. Reynolds

Reynolds submitted a petition for reconsideration to the Agency on August 21, 1991. As the basis for reconsideration, Reynolds relied on a RACT determination for a Reynolds facility in Virginia that performs similar operations. Reynolds could not rely on this basis during the comment period for the FIP. USEPA approved the Virginia RACT determination in August 1990, two months after the FIP was promulgated. This information is of central relevance because it provides source-specific information about RACT as USEPA has interpreted it for a similar facility; when possible, RACT should be determined as it applies to a specific source, rather than a general "catch-all" rule. Although USEPA has not completed its review of the Reynolds submittal, the Agency believes it establishes a reasonable basis for reconsideration of the other emission sources rule as it applies to Reynolds. USEPA has agreed to convene a proceeding for reconsideration of the "other emission sources rule" as it applies to Reynolds.

III. Issuance of Stay

USEPA hereby issues a 3-month administrative stay of the effectiveness of the following rules, including the applicable compliance dates, which were promulgated as final federal rules requiring RACT to control VOCs in the Illinois portion of the Chicago ozone nonattainment area (55 FR 26814): (1) The paper coating rule only as it applies to Riverside; and (2) the other emission sources rule and the recordkeeping and reporting requirements only as they apply to Reynolds. USEPA will reconsider these rules, as discussed above. If the reconsideration results in emission limitations and standards which are different than the otherwise applicable FIP rules, USEPA will propose an appropriate compliance period to follow the reconsideration. As a general matter, USEPA will provide an adequate period for compliance upon completion of its final action on reconsideration. In essence, USEPA will seek to ensure, as described above, that the affected parties are not unduly prejudiced by the Agency's reconsideration.

USEPA recognizes the interests of the State of Wisconsin in this matter. The regulatory requirements that will be stayed, pursuant to today's action, were undertaken in the context of a settlement agreement between USEPA and the States of Wisconsin and Illinois. In recognition of those obligations, USEPA will reconsider the rules in question as expeditiously as practicable.

IV. Authority for Stay and Reconsideration

The administrative stay and reconsideration of the rule and associated compliance periods announced by this notice are being undertaken pursuant to section 307(d)(7)(B) of the CAA, 42 U.S.C. 7607(d)(7)(B). That provision authorizes the Administrator to stay the effectiveness of a rule for up to three

months during the reconsideration of the final rulemaking action.

V. Amendment to the Indefinite Stay Affecting Viskase, Allsteel and GM

USEPA is amending 40 CFR 52.741(z)(1) to include a statement that USEPA will publish in the **Federal Register** its final decision upon reconsideration of certain RACT rules as they affect Viskase, Allsteel and GM. This is not a substantive change to the rule because USEPA regularly publishes its decisions upon reconsideration in the **Federal Register**, and in that **Federal Register** notice, USEPA will establish how its decision on reconsideration will be effectuated. This language is merely for clarification of USEPA's process in handling reconsiderations for which the Agency has convened a proceeding and for terminating indefinite stays granted pending such reconsideration.

Dated: November 6, 1991.

William K. Reilly,

Administrator.

List of Subjects in 40 CFR Part 52

Air pollution control, Environmental protection, Ozone and volatile organic compounds.

For the reasons set out in the preamble, Title 40 of the Code of Federal Regulations, Chapter I, Part 52, is being amended as follows:

PART 52—APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS

1. The authority citation of part 52 continues to read as follows:

Authority: 42 U.S.C. 7401–7642.

Subpart O—Illinois

2. Section 52.741(z) is amended by adding the following sentence to the end of paragraph (z)(1) and adding a new paragraph (z)(4) to read as follows:

§ 52.741 Control strategy: Ozone control measures for Cook, DuPage, Kane, Lake, McHenry, and Will Counties.

* * * * *

(z) * * *

(1) * * * When USEPA concludes its reconsideration, it will publish its decision and any actions required to effectuate that decision in the **Federal Register**.

* * * * *

(4) The following rules are stayed from November 6, 1991 to February 6, 1991:

(i) 40 CFR 52.741(e) only as it applies to Riverside Laboratories, Inc., and;

(ii) 40 CFR 52.741 (x) and (y) only as it applies to Reynolds Metals Company.

* * * * *

[FR Doc. 91–27388 Filed 11–19–91; 8:45 am]

BILLING CODE 6560–50–M

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Parts 1 and 22

[CC Docket No. 90–6; FCC 91–306]

Filing and Processing of Applications for Unserved Areas in the Cellular Service and To Modify Other Cellular Rules

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: Rules for filing, processing and selection of applications for unserved areas in the Domestic Public Cellular Radio Telecommunications Service are adopted. Current licensees in MSAs and RSAs have five years to expand their systems free from the filing of competing applications (fill-in period). The adopted rules are for applications filed after the five year fill-in period has expired. Prior to the adoption of these rules, no applications for unserved areas could be accepted for filing. The intended effect of these rules is to provide a fair and equitable method of selecting applicants who wish to serve areas of the United States which are not being served by current licensees. In addition, the order adopting the rules affirms the Commission's Order on Reconsideration of Second Report and Order (CC Docket No. 85–388), 4 FCC Rcd 5377 (1989), 54 FR 30895 (July 25, 1989) and Cellular Applications for Unserved Areas in MSAs/NECMAs, 4 FCC Rcd 3636 (Com. Car. Bur. 1989). The order also modifies several rules applicable to all licensees.

EFFECTIVE DATES: February 18, 1992, except that § 22.925 will be effective January 21, 1992.

FOR FURTHER INFORMATION CONTACT: Carmen Borkowski or Andrew Nachby, Mobile Services Division, Common Carrier Bureau (202) 632–6450 or Steve Markendorff, Mobile Services Division, Common Carrier Bureau, (202) 653–5560.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's First Report and Order, in CC Docket No. 90–6, adopted September 26, 1991 and released October 18, 1991.

The full text of Commission decisions are available for inspection and copying during normal business hours in the FCC Dockets Branch (room 230), 1919 M Street NW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractor, Downtown Copy Center, (202) 452–1422, 1114 21st Street, NW., Washington, DC 20036.

Paperwork Reduction

Public reporting burden for the collections of information is estimated as follows:

Sections/forms	Est. average hours per response	Est. annual responses
Section 22.6	2 hours	20,000
Section 22.13	2 hours	1,000
Section 22.903(f)(1).	2 hours	1,200
Section 22.917	2 hours	20,000
Section 22.924 (incls. FCC 401 and Ex.).	8 hours	20,000
Section 22.925	6 hours	1,500
FCC 464	.16 (10 minutes).	20,000
FCC 489	3.62 hours	500

Total Annual Burden: 258,410.

Frequency of Response: On occasion.

These estimates include the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collections of information. Send comments regarding these burden estimates or any other aspect of the collections of information, including suggestions for reducing the burden, to the Federal Communications Commission, Information Resources Branch, room 416, Paperwork Reduction Project (3060–0438), Washington, DC 20554 and to the Office of Management and Budget, Paperwork Reduction Project (3060–0438), Washington, DC 20503.

Summary of First Report and Order

Current rules give each cellular system licensee the opportunity to expand its system for a period of five years from the date its authorization is granted, free from the filing of competing applications. This time frame is known as a fill-in period. The Commission has previously determined that applications for any remaining unserved areas would be filed without a wireline frequency set aside, would not be accepted for filing until after the expiration of the fill-in period and the adoption of rules for processing applications for unserved areas.

The First Report and Order affirms the Order of Reconsideration of Second

Report and Order (CC Docket No. 85–388) 4 FCC Rcd 5377 (1989), 54 FR 30895 (July 25, 1989) and Cellular Applications for Unserved Areas in MSAs/NECMAS, 4 FCC Rcd 3636 (1989). The Bureau Order is affirmed because the Commission had stated previously that it would only accept applications for unserved areas once rules were enacted for processing unserved area applications. The Commission also affirms its decision modifying the fill-in rule for MSAs.

Applications for unserved areas will be filed on the 31st day after the five year fill-in period in a particular Metropolitan Statistical Area (MSA) or Rural Service Area (RSA) expires for a particular frequency block (Phase I). After the application is granted, there will be a one year construction period. During this one year, system modifications must also be made. On the 121st day after this authorization is granted, applications for any remaining unserved areas will be accepted on a first come, first served basis (Phase II). For markets whose fill-in periods have expired, the filing window will be announced by public notice. In Phase I, all applications filed during the filing period in the same market will be considered mutually exclusive. Lotteries will be used to select from mutually exclusive proposals.

The definition for unserved areas is those areas subject to the Communications Act where no CGSA exists. The First Report and Order establishes that unserved area applications must propose CGSAs that are 75% covered by 39dBu contours, the current standard for RSAs. In addition, unserved area applications must have a minimum coverage of 50 contiguous square miles rather that the 10 square miles originally proposed because the Commission has been convinced that 50 square miles is generally the minimum coverage necessary to ensure a viable stand-alone system. A new formula for determining reliable service areas for the cellular service has been proposed in a Further Notice of Proposed Rulemaking which has been adopted and is being released simultaneously with this rulemaking.

In the filing of applications for unserved areas, no party may have an ownership interest, direct or indirect, including interests of less than one percent, in more than one mutually exclusive unserved area application. Applicants for unserved areas may not have an interest in more than one pending application for the same or an overlapping CGSA even if on different frequency blocks. In order to clarify any exceptions to this rule, the order defines a publicly traded corporation as "a corporation whose shares (stock or securities) are (1) owned or available to the general public, (2) are registered with the Securities and Exchange Commission (SEC), (3) are listed, or admitted to unlisted trading privileges, on a national securities exchange, or quoted in an automated interdealer quotation system and (4) the corporation has filed SEC Form 10–Q during at least two of the four quarters preceding the filing date of the application." This is to prevent a person from having an unfair cumulative change in any lottery which would be held if multiple applications for the same geographic territory are filed.

Unserved area permittees will not be allowed to sell an authorization for unserved areas by transfer, assignment or any other form of alienation, when the facilities have not been constructed and operational for one year. Rather, only constructed systems which have been operated for one year can be sold. For unserved areas the Commission will not follow the policy adopted in Bill Welch, 3 FCC Rcd 6502 (1988), to prevent the filing of speculative applications for these unserved areas. There is for these areas, the last remaining in the country, a higher probability that applications will be filed for the mere sake of speculation or delaying the expansion of an already authorized system. This rule will not affect policies for MSA and RSA permittees.

In addition, unserved area licensees are required to complete construction of their systems and initiate service to the public within one year of the date of their initial authorization. This will be a condition to the authorization and these requirements will be enforced through automatic cancellation of the authorization for failure to comply with this rule. This is to guarantee expeditious service to the public and deter speculative applications.

Existing RSA licensees will be permitted to enter into contracts to permit an unserved area licensee to maintain a 39 dBu contour covering both an unserved area and an area in an RSA where the five year fill-in period has not yet run. This approach can improve the ability of an applicant to create a viable service area while protecting the existing RSA licensee's exclusive fill-in rights. In addition, RSA licensees will be allowed to permit others to file inside the RSA during the five-year period. This eliminates the § 22.31(f) two step process for transferring a portion of an RSA to a third party.

The application rules for unserved areas generally remain the same as for RSAs with some modifications:

In general, applicants can only propose one CGSA per application; all Phase I applications filed for the same frequency block in one market will be considered mutually exclusive; one application will be selected by lottery from among all mutually exclusive applications; and applications for unserved areas will be filed and processed in the same general form required for RSA applications. Thus, the letter perfect and unacceptable for filing standards will be followed. Applications will be filed at the Strip Commerce Center Facility in Pittsburgh. In Phase I an applicant will file a master microfiche and one copy. In Phase II the applicant will file a paper original and a master microfiche plus two microfiche copies. Full market settlements but no partial settlements between mutually exclusive applicants will be allowed.

Rules Applicable to all cellular licensees:

Nonwireline carriers will not be allowed to file petitions to defer the initiation of wireline service to the public on the basis that the wireline has an anticompetitive headstart. With the ability of the competing carrier to resell the wireline's service until its facilities are built, there is no competitive reason to delay the wireline's provision of service to the public.

The Commission has never granted a petition to defer because insufficient evidence of an anticompetitive headstart has been provided by petitioners.

In addition, the Commission will restrict common ownership in competing cellular systems. No person may have a direct or indirect ownership interest in both frequency blocks in overlapping CGSAs, unless such interest poses no substantial threat to competition. This is to promote competition in the markets.

Ordering Clauses

Accordingly, *it is ordered*, pursuant to sections 1, 4(i), 4(j) and 303(r) of the Communications Act of 1934, 47 U.S.C. 151, 154(i), 154(j) and 303(r) that part 1 and part 22 are amended as set forth below, effective February 18, 1992, except that Section 22.925 will be effective January 21, 1992.

List of Subjects

47 CFR Part 1

Administrative practice and procedure, Communications common carriers, Radio, Reporting and recordkeeping requirements.

47 CFR Part 22

Cellular radio, Communications common carriers, Communications equipment, Radio, Reporting and recordkeeping requirements, Rural areas.

Federal Communications Commission
Donna R. Searcy,
Secretary.

Filing Procedures

1. For Phase I, applications for unserved areas in markets and for frequency blocks where the fill-in period has already expired or will expire within 90 days after the publication of rules in this proceeding will be accepted on dates to be announced by public notice. For markets in which the fill-in period ends after 90 days after publication of the rules, the filing window will not be announced by public notice. Rather, the filing window will be on the 31st day after the end of the fill-in period.[1] Any applications filed before this one day window will be dismissed as untimely filed. Any applications filed after this one day period will be dismissed as untimely filed (unless there are no applications filed during the filing window, in which case they will be treated for processing purposes as Phase II applications). For applications filed in Phase I, the system proposals must be contained within existing MSA and RSA geographical boundaries.[2] Every application filed within a geographical boundary (MSA or RSA) will be treated as mutually exclusive.

2. After a construction permit is granted for an unserved area in a particular market, the licensee will have up to one year to construct its proposed system. The initial Phase I licensee may file only one major modification application in its market, which modification must be filed within 90 days of the grant of the construction permit.[3] The modification application may propose *de minimis* or contract extensions into an adjacent market under the same circumstances as permitted in note 5 *supra*.[4] The modification application may propose a CGSA which is not contiguous with the authorized or proposed CGSA only if the noncontiguous CGSA meets the minimum area requirements of § 22.924. The Commission will not accept applications which are mutually exclusive with the modification application filed by the unserved area permittee.[5] The filing of the modification application does not extend the construction deadline for completing the system as originally proposed. Failure to complete construction of the original proposal and to begin providing service to the public within 12 months of the original grant date will lead to automatic forfeiture of the entire authorization, including the modification proposal. The modification proposal must be completed within 12 months of the grant of the modification application. If construction is not completed and service is not provided to the public by this deadline, the authorization granting the modification proposal will be automatically forfeited. But see para. 96 of the Commission's order. Applications for any remaining unserved areas during Phase II will be accepted and granted on a first come, first served basis. Phase II applications may not be filed until the 121st day after a Phase I application construction authorization is granted.[6] During the first 120 days no other applications to serve any areas in the market will be accepted.

3. In Phase II, applicants are not restricted to proposing service areas in one market.[7] Applicants will file a separate application for each area they are interested in serving limited to one CGSA per application. If two or more applications are filed on the same day, in the first come, first served phase, they would be considered mutually exclusive if their CGSAs overlap in such a way that a grant of one would preclude the grant of the other application. We will allow applicants to amend their proposals to remove the mutual exclusivity if they do not create new conflicts with other pending applications or to show why their proposals could both be granted. If the mutual exclusivity is not eliminated the applications will be subject to the random selection procedures adopted in this order.

Final Rules

Parts 1 and 22 of title 47 of the Code of Federal Regulations are amended as follows:

A. PART 1—PRACTICE AND PROCEDURE

1. The authority citation for part 1 continues to read as follows:

Authority: Secs. 4, 303, 48 Stat. 1066, 1082, as amended; 47 U.S.C. 154, 303; Implement, 5 U.S.C. 552, unless otherwise noted.

2. Section 1.823 is amended by adding a new paragraph (b)(3) to read as follows:

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[1] Appendix E to this order identifies the construction permit dates for all MSA markets in which construction permits have been granted. A further public notice will be issued to provide information for RSAs and markets granted after this first public notice is issued. For purposes of computing the time for filing unserved area applications, the Commission will follow the provisions of section 1.4 of the rules for determining when the fill-in period expires. The Commission also clarified that in RSAs which have been partitioned to two or more licensees with construction permits issued on different dates the five-year fill-in period will be determined from the date the initial construction authorization was granted for that frequency block in the MSA or RSA. This conforms § 22.31(f) with the Commission's intent to provide all licensees with a protected fill-in period of five years which runs from the date of the initial construction authorization for each frequency block granted in the MSA or RSA. See Order on Reconsideration of Second Report and Order, 4 FCC Rcd at 5380 (1989).

[2] Initial applications for unserved areas may propose *de minimis* extensions into adjacent markets in which the five-year fill-in period has not run. The extension area may not be counted as territory for purposes of the minimum area requirements of new § 22.924 of the rules. Initial applications may contain an extension into a market in which the five-year fill-in period has not run where the unserved area applicant has a contract with the adjacent market license holder permitting that particular applicant to file for area within the adjacent market (hereinafter "contract extension"). Blanket contracts permitting a group of unserved area applicants to build in the adjacent market if a construction permit is awarded for the unserved areas will not be allowed as contract extensions. A blanket contract signed by a licensee/permittee in an adjacent market where the fill-in period has not run, agreeing to permit an extension by anyone who wins the lottery in the adjacent unserved area, would promote the filing of speculative applications in the unserved area. It would be akin to the bank letters addressed "to whom it may concern," that have not been allowed by the Commission See e.g., Multi-State Communications, Inc. v. FCC, 590 F. 2d 1117 (D.C. Cir. 1978), cert–denied, 440 U.S. 959(1979). Round IV Cellular Applications, Order on Reconsideration, FCC 8646, Mimeo No. 36444, para. 14, (released January 24, 1986). Extensions into an adjacent market pursuant to contract may be counted towards meeting the minimum area requirements for unserved area applications. During the initial filing window phase, applications may not propose any extension, *de minimis* or otherwise, into an adjacent market in which the five-year fill-in period has run prior to the time the unserved area application is filed.

[3] During the construction period the licensee may also file minor modification applications to its system. However, these minor changes may not diminish the minimum area requirements of § 22.924.

[4] Of course, *de minimis* extensions do not entitle the applicant to interference protection. A contract extension into an adjacent market may be proposed in the modification application only if the licensee in the adjacent market possesses either the right to modify its system or the contract extension area is entirely contained within an authorized or proposed CGSA at the time the unserved area modification application is filed. The extension area in any event must be contiguous with the authorized or proposed, modified CGSA of the unserved area licensee.

[5] Phase I unserved area licensees are not permitted to sell to a third party any right to file for a portion of an unserved area that the permittee may file for in its modification application period. If the Phase I licensee does not wish to serve a particular unserved area, the area can be filed for during Phase II licensing.

[6] Of course, if there are no Phase I applications filed, Phase II applications may be filed beginning on the day after the Phase I filing window.

[7] Phase II applicants may propose *de minimis* and contract extensions in accordance with guidelines outlined in note 2, *supra*.

§ 1.823 Random selection procedures for the Public Land Mobile and Domestic Public Cellular Radio Telecommunications Services.

* * * * *

(b) * * *

(3) *Cellular Radio Telecommunications Service—Unserved Areas.* In the Phase I licensing phase, petitions to deny must be filed within 30 days after the date of public notice announcing the tentative selectee. If the tentative selectee is qualified, the Commission will grant its application and dismiss the losing applications. If the tentative selectee's application cannot be granted, it will be either designated for hearing or dismissed. If the winning application is dismissed or ultimately denied, another lottery will be held to select an application from the remaining applications. In the Phase II licensing phase, petitions to deny must be filed within 30 days from the date of public notice accepting the application for filing.

* * * * *

B. PART 22—PUBLIC MOBILE SERVICE

1. The authority citation for part 22 continues to read as follows:

Authority: 47 U.S.C. 154, 303, unless otherwise noted.

2. Section 22.2 is amended by adding the following new definitions in alphabetical order and revising the definitions for "Non-initial cellular applications" and "Rural service area" to read as follows:

§ 22.2 Definitions.

* * * * *

Fill-in application. Applications by initial cellular system licensees expanding their systems within Metropolitan Statistical Areas and Rural Service Areas during the five year fill-in period.

Fill-in period. The time frame during which an initial cellular licensee can expand its system free from competing applications. This period commences from the date of the license grant (construction authorization) of each system and runs for five years.

* * * * *

Initial cellular applications. Original applications for cellular systems resulting in the first authorizations in a geographic area.

* * * * *

Metropolitan Statistical Area (MSA). 306 areas including New England County Metropolitan Areas for the New England States (NECMA) defined by the Office of Management and Budget, as modified by the Federal Communications Commission, for which a common carrier may apply to provide cellular service. See § 22.903. This definition also includes the Gulf of Mexico Service Area (water areas of the Gulf of Mexico, its border defined as the coastline).

* * * * *

Non-initial cellular applications. Applications for modifications, transfer of control and assignment of authorizations for existing systems.

* * * * *

Rural service area (RSA). An area not included in a Metropolitan Statistical Area for which a common carrier may have a license to provide cellular service and which the Commission has specifically defined as an RSA.

* * * * *

Unserved areas. Any area to which the Communications Act of 1934, as amended, is applicable and which is outside of an existing cellular geographic service area in a specific frequency block.

* * * * *

3. Section 22.6 is amended by removing paragraph (b)(3) and adding paragraphs (b)(2) and (d)(3) to read as follows:

§ 22.6 Filing of applications, fees, and numbers of copies.

* * * * *

(b) * * *

(2) *Cellular applications for unserved areas.* In the Phase I licensing phase, cellular applications for unserved areas may be filed in a filing window, which occurs on the 31st day after the end of the fill-in period. On the 121st day after this authorization is granted, applications for any remaining unserved areas will be accepted for filing during Phase II on a first come, first served basis.

(i) If no applications are filed in Phase I, applications for unserved areas may be filed beginning the day after the end of the filing window and will be granted on a first come, first served basis.

(ii) For markets whose fill-in periods expired on or before February 18, 1992 the filing window will be announced by Public Notice.

* * * * *

(d) * * *

(3) *Cellular Applications for Unserved Areas.* In Phase I applicants will file a master microfiche and one copy. The microfiche must depict the reduced 8.5" × 11" map (Application Exhibit II, See § 22.924). The paper original of the application must be filed 7 days after the release of the public notice announcing the applicant as the lottery winner and include a full size map (Application Exhibit I see § 22.924).

(i) In Phase II applicants must file the paper original and a master microfiche plus two microfiche copies. The map on a scale of 1:250,000 and the reduced map must be included with the paper original (Application Exhibits I and II, see § 22.924).

(ii) The original of the application must be enclosed in stiff covers and fastened securely along the left edge without exposed sharp edges (looseleaf binders, plastic binding strips, covered metal clasps).

(iii) Applications must include appropriate filing fees and must be filed according to §§ 0.401 and 1.1101 of the rules.

(iv) A copy of each unserved area application must be served on the licensees for the same frequency block of any adjacent systems whose CGSA, MSA or RSA boundaries are within 50 miles of the boundaries of the proposed system.

(v) All cellular applications for unserved areas must have the following information printed on the mailing envelope, the microfiche envelope and on the title area at the top of the microfiche:

(A) The name of the applicant;

(B) Market name(s) and market number(s);

(C) Frequency block.

* * * * *

4. Section 22.13 is amended by adding a new paragraph (a)(1)(iv) to read as follows:

§ 22.13 General application requirements.

(a) * * *

(1) * * *

(iv) Initial cellular applicants must submit in the case of partnerships, the name and address of each partner, his citizenship and the share or interest participation in the partnership. This information must be provided for all partners, regardless of their respective ownership interests in the partnership. A signed and dated copy of the partnership agreement must be included in the application. This information must be included in Exhibit V of the application.

* * * * *

5. Section 22.31 is amended by adding paragraphs (a)(1)(ii) and (b)(2)(iii) and revising paragraph (f) to read as follows:

§ 22.31 Mutually exclusive applications.

(a) * * *

(1) * * *

(ii) *Applications for unserved areas.* In the Phase I licensing phase cellular applications for unserved areas will be

considered mutually exclusive if they are within the same geographical boundary (MSA or RSA) and filed within a filing window which occurs on the 31st day after the end of the five-year fill-in period for a particular frequency block or pursuant to a Public Notice published by the Commission. See 47 CFR 22.6(b)(2)(i). In the Phase II licensing phase, applications filed on the same day will be considered mutually exclusive if their CGSAs overlap in such a way that a grant of one would preclude the grant of the other application.

(b) * * *

(2) * * *

(iii) *Domestic Public Cellular Radio Telecommunications Service—applications for unserved areas.* In Phase I the applications must be filed within a filing window, which occurs the 31st day after the end of the five-year fill-in period for a particular frequency block or pursuant to a Public Notice published by the Commission. See 47 CFR 22.6(b)(2)(i).

* * * * *

(f) *Rural Service Areas.* Applications by entities other than licensees or grantees for a particular RSA to serve unserved areas outside the presently authorized CGSA but within the Rural Service Area (RSA) will not be accepted for five years from the grant of the initial construction authorization of each frequency block in an RSA.

(1) During this five-year period the initial licensee will be authorized to expand its system into other areas of the RSA and competing applications will not be accepted.

(2) RSA licensees may allow other applicants to file inside the RSA during the five-year fill-in period.

(i) The applicant must enter into an agreement with an existing RSA permittee/licensee permitting the applicant to file in its market. The contract will specifically state the location of the applicant's CGSA and any expansion rights the RSA licensee cedes to the other party during the RSA licensee's five-year fill-in period. The applicant must file on a Form 401, which will be subject to the 30 day public notice period and petitions to deny.

(ii) The systems constructed by third parties will not satisfy the 18 months construction requirements of the RSA licensee.

* * * * *

6. Section 22.33 is amended by adding new paragraph (b)(3) to read as follows:

§ 22.33 Grants by random selection.

* * * * *

(b) * * *

(3) *Unserved areas.* Partial settlements among mutually exclusive applicants for unserved areas are prohibited. Full settlements among all mutually exclusive applicants in an unserved areas are permitted and must be filed no later than 2 business days prior to the lottery.

* * * * *

7. Section 22.43 is amended by revising paragraphs (c)(1) and (c)(2), adding paragraph (c)(4)(i) and adding and reserving paragraph (c)(4)(ii) to read as follows:

§ 22.43 Period of construction.

* * * * *

(c)(1) Cellular base stations, in markets 1–90, which will provide coverage over 75% of the cellular geographic service area, as defined in § 22.903, shall be completed and the station must provide service to the public within 36 months from the date the radio station authorization is granted.

(2)(i) For systems beyond the top-90 markets, construction of an initial phase of the system, which may consist of one or more cells, must be completed, a notification on Form 489 that construction has been completed must be filed and service to the public must be provided, within 18 months from the date the radio station authorization is granted.

(ii) *Unserved areas.* Construction of the entire authorized system, which may consist of one of more cells, must be completed, a notification on Form 489 that construction has been completed must be filed and service to the public must be provided, within one year from the date the authorization is granted.

(A) Failure to complete construction of the original proposal and to begin providing service to the public within 12 months of the original grant date will cause the authorization automatically to terminate including any modification proposals authorized or under construction.

(B) The period to construct a major modification to an unserved area system will be one year from the grant date of the major modification application. This does not extend the time period in paragraph (c)(2)(ii) of this section. Failure to provide service to the public pursuant to the modification proposal within 12 months of the grant of the modification application will cause the modification authorization automatically to terminate.

* * * * *

(4) * * *

(i) *Unserved areas.* Extensions of time to complete construction must meet the requirements of paragraph (b) of this section. If the licensee orders equipment and initiates state certification or other required proceedings within three months from the date of authorization, a presumption of due diligence is created.

(ii) [Reserved]

* * * * *

8. Section 22.902 is amended by revising paragraph (b) introductory text and adding new paragraphs (b)(3), (b)(4) (b)(5), (d)(4), and (d)(5) to read as follows:

§ 22.902 Frequencies.

* * * * *

(b) For cellular systems the assignment of frequencies will be divided into two blocks. Assignments will be made from the frequencies listed for cellular systems A and B. For initial applications for MSAs and RSAs, common carriers not also engaged in the business of affording public landline message telephone service will be assigned frequencies from Cellular System A. Common carriers engaged directly or indirectly in the business of affording public landline message telephone service will be assigned frequencies from cellular System B in those areas in which they provide such landline service in some portion of the cellular market, for initial applications for MSAs and RSAs.

* * * * *

(3) In accordance with § 22.31(a)(1)(i) and (f), after the five year fill-in period has expired for a particular frequency block, applicants may apply for this frequency block to provide service to unserved areas regardless of whether the applicant is a wireline or nonwireline carrier. The applicant shall indicate in its application the frequency block for which it is applying.

(4) In the Phase I licensing phase applications for unserved areas will be filed following MSA and RSA geographical boundaries.

(i) Applicants may file one application per market and one CGSA per application.

(ii) The Phase I licensee may file one major modification application within 90 days of the grant of the authorization without being subject to competing applications. The modification application may propose *de minimis* or contract extensions into an adjacent market in accordance with the provisions of § 22.903(f).

(A) A contract extension into an adjacent market may be proposed in a Phase I modification application only if the licensee in the adjacent market possesses either the right to modify its system or the contract extension area is

entirely contained within an authorized or proposed CGSA at the time the unserved area modification application is filed. The extension area must be contiguous with the authorized or proposed, modified CGSA of the unserved area licensee. The major modification application may propose a CGSA which is not contiguous with the authorized or proposed CGSA only if the noncontiguous CGSA meet the minimum coverage requirements of § 22.924.

(B) The Phase I licensee may also file minor modification applications to its system. However, the minor modification applications may not diminish the minimum area requirements of § 22.924.

(*1*) He will not accept mutually exclusive applications with a modification application filed by the unserved area licensee. Phase I permittees/licensees are not permitted to sell to a third party any rights to file for a portion of an unserved area.

(*2*) One hundred and twenty one days after the Phase I license grant applications for any remaining unserved areas may be filed during phase II and will be granted on a first come, first serve basis.

(*3*) In Phase II, applications are not restricted to service areas entirely contained within one MSA or RSA market. Applicants will file a separate application for each area they are interested in serving limited to one CGSA per application. Phase II applications may propose *de minimis* and contract extensions in accordance with § 22.903(f).

(5) *Ownership of Cellular Systems.* No person may have a direct or indirect ownership interest in licensees for both frequency blocks in overlapping CGSAs, unless such interests pose no substantial threat to competition. A licensee, a person who owns a controlling interest in a licensee, or a person who actually controls a licensee for one frequency in a CGSA may not own any direct or indirect ownership interest in the licensee, a person who owns a controlling interest in a licensee, or a person who actually controls a licensee for the other frequency block in an overlapping CGSA. A direct or indirect ownership interest of 5% or less in both systems is automatically excluded from the general rule prohibiting multiple ownership interests.

(i) Interests of less than 5% are considered and are not excluded from the rule prohibiting multiple ownership interests in cases of persons or entities who own a small percentage of the licensee but nonetheless actually control the licensee, a person who owns a controlling interest in the licensee, or a person who actually controls the licensee.

(ii) Divestiture of interests as a result of a transfer of control or assignment must occur prior to consummating the transfer or assignment.

* * * * *

(d) * * *

(4) Authorizations with *de minimis* 39 dBu contour extensions do not include the right to interference protection against the licensee of an MSA or RSA in which the five year fill-in period has not yet expired. During this period licensees must coordinate with the current or future co-channel licensee(s) in the areas outside the MSA/RSA. In the event the current or future MSA/RSA licensee encounters interference from another licensee's 39 dBu contour extension during the fill-in period, the licensee with the 39 dBu contour extension will have to change frequencies in those cells or modify its system to eliminate the 39 dBu contour extension causing the interference. After the five year fill-in period expires in an area into which a contour extends, the licensee whose 39 dBu contour covers the extension area will have interference protection in the extension area and this area will automatically become part of this licensee's CGSA, unless the existing licensee files an application to serve the extension area prior to the expiration of the fill-in period, and that application is granted. Until such application is granted, if at all, the licensee with the *de minimis* extension may continue to operation in the extension area subject to this paragraph.

(5) Licensees constructing systems must initiate coordination no later than 60 days prior to the scheduled effective date of any changes to the frequency plan on file with the Commission.

* * * * *

9. Section 22.903 is amended by adding new paragraphs (a)(1) (i) and (ii) and (f) to read as follows:

§ 22.903 Cellular system service areas.

(a) * * *

(1) * * *

(i) A single cell can be used to serve multiple markets.

(ii) The cell located in another market may not be used in meeting the geographic coverage requirements for an MSA, RSA or unserved area market.

* * * * *

(f) *Unserved areas.* While geographic boundaries are retained, unserved area applications will not be allowed to have 39dBu contours extending beyond the borders of the MSA or RSA, except that a *de minimis* contour extension may be requested in accordance with paragraph (f)(1) of this section. Applications filed during Phase I or II cannot have any extensions, even *de minimis* 39dBu contour extensions into an existing licensee's CGSA for the relevant frequency block or which extend into an MSA or RSA in which the five-year fill-in period has already expired before the filling of the unserved area application. Within the CGSA, the applicant must depict each base station site and its respective 39dBu contour as determined by the methods described in paragraph (c) of this section. An applicant must state that the combined 39dBu contours of all base stations will cover at least 75% of the total CGSA.

(1) Applicants may file a waiver request for a *de minimis* extension of 39 dBu contours into an adjacent MSA or RSA in which the five-year fill-in period has not expired with an engineering justification indicating that the system is designed only to serve the areas within the boundaries of the applicant's CGSA, and that the extension is unavoidable because of irregular terrain or an unusual MSA or RSA boundary. An alternative engineering showing without the *de minimis* extension must be filed with the waiver request. Failure to comply with these requirements and the requirements of § 22.19 will render the extension proposal defective.

(i) Authorizations including any such *de minimis* contour extensions do not have interference protection against the licensee of an MSA or RSA in which the five-year fill-in period has not yet expired. Before the five-year fill-in period expires, if the frequencies chosen for a 39 dBu contour extension or any other technical problem cause interference to an existing MSA or RSA licensee, the licensee granted the waiver for a 39 dBu contour extension will have to change frequencies in those cells or modify its system to eliminate the 39 dBu contour extension causing the interference. After the five-year fill-in period expires, any unserved area licensee whose 39 dBu contours covers an extension area will have interference protection in the extension area, and this area automatically becomes part of this licensee's CGSA, unless the existing licensee files an application to serve the extension area prior to the expiration of the fill-in period and that application is granted. Until such application is granted, if at all, the unserved area licensee may continue to operate in the extension area subject to this paragraph.

(ii) The *de minimis* extension area may not be counted as territory for purposes of the minimum area coverage requirements of § 22.924.

(2) Initial applications filed during Phase I and Phase II may contain an extension into a market in which the five-year fill-in period has not run by contract with the adjacent market licensee, allowing the unserved area applicant to file for area within the adjacent market (contract extensions).

(i) Contract extensions into an adjacent market may be counted towards meeting the minimum area coverage requirements for unserved area applications.

(ii) a licensee in a market where the five-year fill-in period has not run may file for an area which includes both an unserved area and a portion of its market.

10. Section 22.916 is amended by revising paragraph (c) to read as follows:

§ 22.916 Evaluation of cellular applications.

* * * * *

(c) *Evaluation of cellular applications.* Mutually exclusive cellular applications shall be randomly selected according to the procedures set forth in §§ 22.33 and 1.822 of this chapter.

11. Section 22.917 is amended by removing paragraph (b)(2), revising paragraph (a)(1) introductory text and adding new paragraph (f) to read as follows:

§ 22.917 Demonstration of financial qualifications.

(a) * * * (1) Applications for new cellular systems shall demonstrate the applicant's financial ability to meet the realistic and prudent:

* * * * *

(f) *Unserved areas.* Except as provided in paragraph (f)(8) of this section, all applicants for initial unserved area (both wireline or nonwireline carriers) systems are required to have a separate market specific firm financial commitment for each unserved area application filed. In addition, all applicants are required to comply with the following requirements:

(1) An applicant shall demonstrate, at the time of filing an application for an initial unserved area system that it has either a firm financial commitment or available financial resources necessary to construct and operate for one year its proposed cellular system. The firm financial commitment may be contingent on the applicant obtaining an authorization.

(2) The demonstration of commitment must include and be sufficient to cover the realistic and prudent estimated costs of construction, operating and other initial expenses for one year.

(3) The firm financial commitment required above shall be obtained from a state or federally chartered bank or savings and loan association, another recognized financial institution, or the financial arm of a capital equipment supplier and shall contain a statement that the lender—

(i) Has examined the financial condition of the applicant including audited financial statements where applicable, and has determined that the applicant is creditworthy;

(ii) That the lender has examined the financial viability of each proposal for which the applicant intends to use the commitment;

(iii) That the lender is committed to providing a sum certain to the particular applicant;

(iv) That the lender's willingness to enter into the commitment is based solely on its relationship with the applicant; and

(v) That the commitment is not in any way guaranteed by any entity other than the applicant.

(4) Applicants intending to rely on personal or internal resources must submit—

(i) Audited financial statements certified within one year of the date of the cellular application, indicating the availability of sufficient net current assets to construct and operate the proposed cellular system for one year;

(ii) A balance sheet current within 60 days of the date of filing that clearly shows the continued availability of sufficient net current assets to construct and operate the proposed cellular system for one year; and

(iii) A certification by the applicant or an officer of the applicant organization attesting to the validity of the unaudited balance sheet.

(5) Applicants intending to rely upon financing obtained through the parent corporation must submit the information required by paragraphs (f)(4)(i) through (iii) of this section as the information pertains to the parent corporation.

(6) Each application for an assignment of a license (or permit), or for the transfer of control of a corporation holding a license (or permit), shall demonstrate the financial ability of the proposed assignee or transferee to acquire and operate the facilities by submitting adequate financial information under the guidelines specified in this section, as appropriate.

(7) *Notice upon default.* In addition to the disclosures required by paragraph (f)(8) of this section, any loan or other credit arrangement providing for a chattel mortgage or secured interest in any proposed radio station facility must include a provision for a minimum of ten (10) days prior written notification to the licensee or permittee, and to the Commission, before any such equipment may be repossessed under default provision of the agreement.

(8) Licensees proposing to serve an unserved area adjacent and integrated to its system need not comply with the requirements of this paragraph (f).

12. Section 22.918 is amended by redesignating paragraph (c) as paragraph (d) and revising it and adding new paragraph (c) to read as follows:

§ 22.918 Amendment of cellular applications.

* * * * *

(c) *Unserved areas.* In the Phase I initial licensing phase applicants for unserved area may not file major amendments. No amendments may be filed prior to conducting the lottery.

(1) Minor amendments and amendments under § 22.23(g), except § 22.23(g)(2), may be filed by the tentative selectee. Information required by § 1.65 of this chapter must be filed within 30 days of public notice announcing the lottery results.

(2) In the Phase II first come, first served licensing phase minor amendments and amendments under § 22.23(g)(2), to resolve frequency conflicts and to show that the mutually exclusive proposals could be granted, without causing new or increased frequency conflicts, and without increasing the 39dBu contours proposed in the applications, may be filed.

(i) Frequency changes (use of signalling or voice channels) within the frequency block originally filed for, to resolve interference conflicts between systems are permitted.

(ii) Applications for unserved areas proposing to change frequency blocks will be considered newly filed.

(d) Notwithstanding the general cellular amendment rules specified in paragraphs (a), (b) and (c) of this section, the amendments described in this paragraph may be filed as specified below:

(1) Amendments in connection with full settlement agreements under § 22.29 may be filed no later than two business days prior to the lottery date. Partial settlements, where permitted, resulting in a merger of interests between two or more mutually exclusive parties may be filed at any time.

(2) Amendments requested by the Commission or the Administrative Law Judge may be filed at any time.

(3) After an application is designated for hearing, amendments may be filed for good cause upon leave of the presiding officer.

13. Section 22.920 is amended by adding new paragraph (c) to read as follows:

§ 22.920 Considerations involving transfer or assignment applications for cellular authorizations.

* * * * *

(c) *Unserved areas.* Authorization for unserved areas cannot be transferred or assigned prior to the licensee providing service to the public for one year.

(1) Licensees may not enter into any agreements (for example, option agreements or management contracts) to transfer control of the license of the system before or during its first year of operations even if the transfer will take place after the first year of operation.

(2) Pro forma assignments or transfers of control will be allowed.

(3) Applications to transfer control filed during the initial one year of operation will be dismissed.

14. Section 22.921 is revised to read as follows:

§ 22.921 Ownership in application for cellular service for markets below the top 90.

(a) *Markets 91–120.* No party may have an ownership interest, direct or indirect, in more than one application for the same MSA market, except that interests of less than one percent will not be considered.

(b) *Markets beyond the top-120 and rural service areas.* Except as otherwise provided herein, no party may have an ownership interest, direct or indirect, in more than one application for the same MSA except that interests of less than one percent will not be considered. For Rural Service Areas, no party to a non-wireline application shall have an ownership interest, direct or indirect, in more than one application for the same Rural Service Area, including an interest of less than one percent. No party to a wireline application shall have an ownership interest, direct or indirect, in more than one application for the same Rural Service Area, except that interests of less than one percent will not be considered.

(c) *Ownership interests in publicly-traded corporate applicants.* (1) Notwithstanding paragraphs (a), (b) and (d) of this section, no party may have an ownership interest, direct or indirect, in mutually exclusive applications filed by publicly-traded corporations, except that interests of less than five percent will not be considered.

(2) *Application.* In applying the provisions of this paragraph (c), ownership and other interests in cellular applicants will be attributed to their holder and deemed cognizable as set forth in paragraphs (c)(2)(i) and (ii) of this section.

(i) *Passive investors.* Investment companies, as defined in 15 U.S.C. 80a–3, insurance companies, and banks holding stock through their trust departments in trust accounts will be deemed to have a cognizable interest in a publicly-traded cellular applicant only if they hold 10 percent or more of the stock of the applicant. This provision applies only if an applicant in which such parties hold an interest certifies in its application that no such party has exerted or attempted to exert any influence or control over the officers of the applicant.

(ii) *Multiplier.* Attribution of ownership interests in a publicly-traded cellular applicant that are held indirectly by any party through one or more intervening corporations will be determined by successive multiplication of the ownership percentages for each link in the vertical ownership chain and application of the relevant attribution benchmark to the resulting product, except that wherever the ownership percentage for any link in the chain exceeds 50 percent, it shall not be included for purposes of this multiplication.

(d) *Unserved areas.* A party to an application for an unserved area, shall not have an interest, direct or indirect, except as described in paragraph (c) of this section, including an interest of less than one percent, in more than one mutually exclusive application in the Phase I initial licensing phase and mutually exclusive proposals in Phase II. Existing licensees who own systems which abut an unserved area applied for may each file one application mutually exclusive with each other even though the applicants share common owners, except that these licensees cannot have interests in pending applications for both frequency blocks in the same geographic area at the same time.

15. New § 22.924 is added to read as follows:

§ 22.924 Content and form of applications for unserved areas.

(a) Applications for unserved areas during Phase I may be filed within a filing window which occurs on the 31st day after the five-day fill-in period expires for each frequency block in each MSA and RSA or pursuant to a Public Notice published by the Commission. See 47 CFR 22.6(b)(2)(i). On the 121st day after the licensee is awarded the authorization for the unserved area any remaining unserved areas may be applied for during Phase II on a first come, first served basis.

(1) Applications for unserved areas must propose a minimum geographical coverage of 50 contiguous square miles.

(2) Existing licensees do not need to meet the minimum coverage requirements of paragraph (a)(1) of this section if they are proposing to serve an area contiguous to an existing system.

(b) Applications for unserved areas must be filed on FCC Form 401. The first page of the application after the cover, see § 22.924(c)(1), must be the transmittal sheet, see § 22.924(c)(2), and then a table of contents listing the exhibits contained in the application. The following exhibits, which will be set off by tabs must be submitted with the application, numbered as follows:

(1) *Exhibit I*—A full sized map. This map must be on a scale of 1:250,000. The map must have a legend, scale, latitude and longitude. This map must be clear, legible and have cell sites specifically plotted. It must depict with clear labelling, the entire CGSA, the 39 dBu contours, and the relevant portions of the RSA or MSA bounaries visible on the map. Regardless of the scale used to satisfy the requirements for the reduced map in Exhibit II, the 1:250,000 scale map must always be used to satisfy the requirements of Exhibit I.

(2) *Exhibit II*—An 8.5 inch by 11 inch reduced map. For this map applicants have a choice of reducing the full sized map in Exhibit I in paragraph (b)(1) of this section. If it is impractical to depict the entire MSA or RSA on the map with a scale of 1:250,000, applicants may use a map with a scale of 1:500,000 or similar scale. The entire MSA or RSA must be depicted, clearly labeled, with the boundaries visibly marked. The map must show cell sites, CGSA boundaries, and the entire 39 dBu contours.

(3) *Exhibit III*—This exhibit must contain the engineering data and calculations used to derive the service contours. See § 22.903(c).

(4) *Exhibit IV*-An exhibit indicating the frequency plan to be used if the application is granted. The frequency plan must include the number of frequencies at each cell site and the specific frequency(ies) or group from which the frequencies were taken and a frequency conversion table.

(5) *Exhibit V*—Ownership information in accordance with § 22.13(a)(1). Individual applicants holding less than a 5% interest in a publicly held corporation that has filed a mutually exclusive application must disclose the fact that the corporation and the applicant both have filed mutually exclusive applications. This disclosure must include the applicant's percentage interest held in the company.

(6) *Exhibit VI*—An indication of the applicant's service proposals for local subscribers and roamers, including the method for handling complaints.

(7) *Exhibit VII*—An Exhibit setting forth how the proposal complies with the Commission's cellular design concepts, and indicating the applicant's projected method for coordinated expansion of the system in response to changing demand.

(8) *Exhibit VIII*—An indication of the basis which the applicant will use to determine whether sufficient congestion exists to warrant cell-splitting.

(9) *Exhibit IX*—Full particulars regarding the cost of construction and other initial expenses of the proposed facilities and demonstration of how the applicant intends to finance construction and other initial expenses and operation for one year. See § 22.917.

(10) *Exhibit X*—If the applicant is providing public landline message telephone service in any portion of its proposed CGSA, it must indicate exactly how its proposed system would interconnect with the landline network. This information must be of sufficient specificity to enable a competitor to design its system to connect with the landline system in exactly the same manner if the competitor so chooses.

(c) Applications shall be filed as set forth in paragraphs (c)(1) through (4) of this section:

(1) Applicants are required to submit as the cover page of their applications (i.e., immediately inside the cover) a Transmittal Sheet For Cellular Applications for Unserved Areas. Copies of this transmittal sheet may be obtained by contacting the Consumer Assistance Office, Federal Communications Commission, 1919 M St., NW., Washington, DC 20554.

(i) On the transmittal sheet applicants must list the name of the applicant, the market number or numbers and the market name or names in which the proposed unserved area is located and the frequency block. The information on the transmittal sheet must match exactly the information on the jacket of the microfiche and on the cover of the application.

(ii) The transmittal sheet will include a certification. All applicants must certify to the following in their applications.

(A) I hereby certify that this application for a cellular authorization is complete in every respect and contains all of the information required by FCC Form 401 and the Commission's cellular application rules. I acknowledge that, if upon Commission inspection, this certification is shown to be incorrect, this application shall be dismissed without further consideration.

(B) I also certify that I am the real party in interest in this application and there are no agreements or understandings, other than those specified in this application, which provide that someone other than the applicant has an indirect or direct interest in the application. I also certify that the applicant intends to construct and operate the station as proposed and that there are no agreements or understandings that are inconsistent with that intent.

(C) I declare, under penalty of perjury, that I am the authorized representative of the above named applicant in the above entitle matter, that I have read the foregoing certification; and the matter and things therein stated are true and correct.

(D) Executed on _____

Applicant Signature _____

Print name _____

Title _____

(E) The certification must be signed in ink. No mechanical reproductions of signatures may be used. The certification must be dated and signed in accordance with the requirements of § 1.743 of this chapter. The title of the person signing the certification must be indicated.

(2) The application, the filing fee, and the microfiche envelope shall be placed in a sealed envelope. The applicant's name, the market name and number and the frequency block, must prominently be displayed in the lower left hand corner of the envelope for all applications sent by mail and placed in the center of the envelope for hand delivered applications.

(3) Applications may only request one CGSA per application. The proposed CGSA may include multiple 39dBu contours per application.

(4) Notification to the FAA, if necessary, in Phase I must be undertaken at the time an applicant is announced by public notice as the lottery winner. In Phase II applicants will notify the FAA at the time they file their applications.

16. New § 22.925 is added to read as follows:

§ 22.925 System informational update.

(a) *Maps.* Every cellular system licensee in an MSA and RSA must file with the Commission 60 days prior to the expiration of the five-year fill-in period in its market a map depicting existing 39 dBu contours and the CGSA, as well as the relevant portions of the MSA or RSA and any proposed modifications pending before or which have not been filed with the Commission. This map must be on a scale of 1:250,000. In addition, the map must have a legend, scale, latitude and longitude, it must be clear, legible and cell site must be specifically plotted. The map must also depict with clear labelling, the entire CGSA, the 39 dBu contours, and the relevant portions of the RSA or MSA boundaries visible on the map.

(1) In addition, licensees must file a reduced map showing the entire MSA or RSA. For this map applicants can reduce the full sized 1:250,000 scale map or if it is impractical to depict the entire MSA or RSA on the map with this scale, applicants may use a map with a scale of 1:500,000 or similar scale. The entire MSA or RSA must be depicted, clearly labeled, with the boundaries visibly marked. The map must show cell sites and the entire 39dBu contours. It must also clearly indicate the boundaries of the MSA(s) or RSA(s).

(2) These maps must be filed in triplicate at the Mobile Services Division office, room 644, 1919 M Street NW., Washington, DC 20554.

(3) If during the 60 day period there occur any changes to the system the licensee must file additional maps with these changes.

(b) *Frequency plan.* An updated frequency utilization chart on frequency plan must be also submitted in accordance with paragraph (a) of this section.

(c) For all markets whose five-year fill-in period expired on or before February 18, 1992, the maps required by paragraph (a) and the frequency plan required by paragraph (b) of this section must be filed on or before January 21, 1992.

17. New § 22.926 is added to read as follows:

§ 22.926 Maps.

(a) All maps required to be filed by subpart K of this part shall:

(1) Except as otherwise provided in § 22.924(b)(2), be on a scale of 1:250,000.

(2) Include an effective date.

(3) Indicate the scale, latitude and longitude.

(4) Have a clear legend.

(5) Show contours, the entire CGSA and the entire MSA or RSA or relevant portions thereof, which must be clearly marked and identified in the map's legend.

(6) Be clear, legible and have cell sites specifically plotted.

(7) Mark CGSAs and contours by the outside of the contour line, regardless of the line's width.

(8) Submit maps on a scale of 1:250,000 in duplicate. Duplicate copies of the maps on a scale of 1:250,000 must be submitted for each market in which the CGSA extends even if *de minimis*, showing the extension area in the adjacent market, marked and labeled for the adjacent market.

(b) In addition to the maps specified in § 22.925, updated maps will also be required any time licensees change their CGSAs.

[FR Doc. 91-27075 Filed 11-19-91; 8:45 am]

BILLING CODE 6712-01-M

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47 CFR Part 73

[MM Docket No. 91-78; RM-7582]

Radio Broadcasting Services; Osceola, AR and Millington, TN

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: This document reallots Channel 251C from Osceola, Arkansas, to Millington, Tennessee, and modifies the license of Diamond Broadcasting, Inc., for Station KPYR(FM), as requested, pursuant to the provisions of Section 1.420(i) of the Commission's Rules. The allotment of Channel 251C to Millington will provide a first local FM service to the community without depriving Osceola of local aural transmission service. See 56 FR 14226, April 8, 1991. Coordinates used for Channel 251C at Millington, Tennessee, are 35-28-03 and 90-11-27. With this action, the proceeding is terminated.

EFFECTIVE DATE: December 30, 1991.

FOR FURTHER INFORMATION CONTACT: Nancy Joyner, Mass Media Bureau, (202) 634-6530.

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's Report and Order, MM Docket No. 91-78, adopted November 1, 1991, and released November 14, 1991. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Dockets Branch (room 230), 1919 M Street NW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractors, Downtown Copy Center, (202) 452-1422, 1714 21st Street NW., Washington, DC 20036.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

PART 73—[AMENDED]

1. The authority citation for part 73 continues to read as follows:

Authority: 47 U.S.C. 154, 303.

§ 73.202 [Amended]

2. Section 73.202(b), the Table of FM Allotments under Arkansas, is amended by removing Channel 251C at Osceola.

3. Section 73.202(b), the Table of FM Allotments under Tennessee, is amended by adding Channel 251C, Millington.

Federal Communications Commission.

Michael C. Ruger,

Assistant Chief, Allocations Branch, Policy and Rules Division, Mass Media Bureau.

[FR Doc. 91-27894 Filed 11-19-91; 8:45 am]

BILLING CODE 6712-01-M

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47 CFR Part 73

[MM Docket No. 91-52; RM-7373]

Radio Broadcasting Services; Macclenny and Williston, FL

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: This document substitutes Channel 221C3 for Channel 221A at Macclenny, Florida, modifies the license for Station WJXR(FM) to specify operation on Channel 221C3, substitutes Channel 267A for Channel 221A at Williston, Florida, and modifies the license for Station WFEZ(FM) to specify operation on Channel 267A, at the request of WJXR, Inc. See 56 FR 11139, March 15, 1991. Channel 221C3 can be allotted to Macclenny in compliance with the Commission's minimum distance separation requirements at Station WJXR(FM)'s licensed site 10.5 kilometers (6.5 miles) east of the community, in order to avoid short spacings to the sites specified in the construction permits for Station WNLE(FM), Channel 219C2, Fernandina Beach, Florida, and Station WZAZ(FM), Channel 224A, Green Cove, Florida. The coordinates for Channel 221C3 are North Latitude 30-17-54 and West Longitude 82-00-55. Channel 267A can be allotted to Williston in compliance with the Commission's minimum distance separation requirements at Station WFEZ(FM)'s current licensed site 10.5 kilometers (6.5 miles) west of Williston. The coordinates for Channel 267A are North Latitude 29-25-04 and West Longitude 82-32-58. With this action, this proceeding is terminated.

EFFECTIVE DATE: December 30, 1991.

FOR FURTHER INFORMATION CONTACT: Nancy J. Walls, Mass Media Bureau, (202) 634-6530.

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's Report and Order, MM Docket No. 91-52, adopted November 1, 1991, and released November 14, 1991. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Dockets Branch (room 230), 1919 M Street NW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractors, Downtown Copy Center, (202) 452-1422, 1714 21st Street NW., Washington, DC 20036.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

PART 73—[AMENDED]

1. The authority citation for part 73 continues to read as follows:

Authority: 47 U.S.C. 154, 303.

§ 73.202 [Amended]

2. Section 73.202(b), the Table of FM Allotments under Florida, is amended by removing Channel 221A and adding Channel 221C3 at Macclenny, and by removing Channel 221A and adding Channel 267A at Williston.

Federal Communications Commission.

Michael C. Ruger,

Assistant Chief, Allocations Branch, Policy and Rules Division, Mass Media Bureau.

[FR Doc. 91-27895 Filed 11-19-91; 8:45 am]

BILLING CODE 6712-01-M

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47 CFR Part 73

[MM Docket No. 89-549; RM-6744 and RM-7292]

Radio Broadcasting Services; Muskegon and Manistee, MI

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: This document substitutes Channel 300B1 for Channel 300A at Muskegon, Michigan, in response to a petition filed by Richard L. Culpepper, and modifies the construction permit for Station WMHG-FM to specify operation on the higher class channel. To accommodate the upgrade at Muskegon, we will substitute Channel 268A for vacant but applied for Channel 300A, Manistee, Michigan (RM-6744). See 54

FR 50778, December 11, 1989. Canadian concurrence has been received for Channel 300B1 at coordinates 43–17–41 and 86–13–12 and for Channel 268A at coordinates 44–14–48 and 86–19–12. A counterproposal (RM–7292) to substitute Channel 268C3 for Channel 268A at Manistee is dismissed. With this action, this proceeding is terminated.

EFFECTIVE DATE: December 30, 1991.

FOR FURTHER INFORMATION CONTACT: Kathleen Scheuerle, Mass Media Bureau, (202) 634–6530.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's Report and Order, MM Docket No. 89–549, adopted November 1, 1991, and released November 14, 1991. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Dockets Branch (room 230), 1919 M Street NW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractors, Downtown Copy Center, 1714 21st Street NW., Washington, DC 20036, (202) 452–1422.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

PART 73—[AMENDED]

1. The authority citation for part 73 continues to read as follows:

Authority: 47 U.S.C. 154, 303.

§ 73.202 [Amended]

2. Section 73.202(b), the Table of FM Allotments under Michigan, is amended by removing Channel 300A and adding Channel 300B1 at Muskegon and by removing Channel 300A and adding Channel 268A at Manistee.

Federal Communications Commission.

Michael C. Ruger,

Assistant Chief, Allocations Branch, Policy and Rules Division, Mass Media Bureau.

[FR Doc. 91–27897 Filed 11–19–91; 8:45 am]

BILLING CODE 6712–01–M

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47 CFR Part 73

[MM Docket No. 90–388; RM–7229, RM–7569]

Radio Broadcasting Services; Crossville and Hilham, TN

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: The Commission, at the request of Mountaintop Broadcasters, Inc., licensee of Station WEGE–FM, Channel 273A, Crossville, Tennessee, substitutes Channel 273C3 for Channel 273A at Crossville, Tennessee, and modifies Station WEGE–FM's license to specify operation on the higher powered channel. See 55 FR 36298, September 5, 1990. Channel 273C3 can be allotted to Crossville in compliance with the Commission's minimum distance separation requirements with a site restriction of 8.7 kilometers (5.4 miles) north to accommodate Mountaintop's desired site. The coordinates for Channel 273C3 are North Latitude 36–01–25 and West Longitude 85–00–06. The proposal filed by Border Communications (RM–7569) requesting the allotment of Channel 274A to Hilham, Tennessee, is denied because Hilham is not a community for allotment purposes. With this action, this proceeding is terminated.

EFFECTIVE DATE: December 30, 1991.

FOR FURTHER INFORMATION CONTACT: Pamela Blumenthal, Mass Media Bureau, (202) 634–6530.

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's Report and Order, MM Docket No. 90–388, adopted November 1, 1991, and released November 14, 1991. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Dockets Branch (room 230), 1919 M Street NW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractor, Downtown Copy Center, (202) 452–1422, 1714 21st Street, NW., Washington, DC 20036.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

PART 73—[AMENDED]

1. The authority citation for Part 73 continues to read as follows:

Authority: 47 U.S.C. 154, 303.

§ 73.202 [Amended]

2. Section 73.202(b), the Table of FM Allotments under Tennessee, is amended by removing Channel 273A and adding Channel 273C3 at Crossville.

Federal Communications Commission.

Michael C. Ruger,

Assistant Chief, Allocations Branch, Policy and Rules Division, Mass Media Bureau.

[FR Doc. 91–27896 Filed 11–19–91; 8:45 am]

BILLING CODE 6712–01–M

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

49 CFR Part 571

[Docket No. 91–11; Notice 2]

RIN 2127–AD81

Federal Motor Vehicle Safety Standards; Rearview Mirrors—Reflectance

AGENCY: National Highway Traffic Safety Administration (NHTSA), DOT.

ACTION: Final rule.

SUMMARY: In response to a petition from Donnelly Corporation, this notice amends the requirements in Federal Motor Vehicle Safety Standard No. 111, *Rearview Mirrors*, with respect to average reflectance levels. The rule clarifies the intent and applicability of the requirements. It also updates the standard to better address current mirror designs and to remove a perceived restriction affecting the introduction of new mirror designs which may provide better glare protection.

DATES: *Effective Date*: The amendments become effective September 1, 1992. Vehicles manufactured before September 1, 1992 may comply with this rule's amendments, effective December 20, 1991.

Petitions for reconsideration: Any petitions for reconsideration of this rule must be received by NHTSA no later than December 20, 1991.

ADDRESSES: Any petition for reconsideration should refer to the docket and notice number set forth in the heading of this notice and be submitted to: Administrator, NHTSA, 400 Seventh Street SW., Washington, DC 20590.

FOR FURTHER INFORMATION CONTACT: Mr. Patrick Boyd, Office of Vehicle Safety Standards, National Highway Traffic Safety Administration, 400 Seventh Street SW., Washington, DC 20590 (202) 366–6346.

SUPPLEMENTARY INFORMATION:

Background

Federal Motor Vehicle Safety Standard No. 111, *Rearview Mirrors*, is intended to reduce the number of crashes that occur because the driver of a motor vehicle does not have a clear and reasonably unobstructed view to the rear.

As initially promulgated, Standard No. 111's mirror construction requirements specified that the reflectance levels for mirrors be at least 35 percent (32 FR 2413, February 3,

1967). The standard further stated that for selective position prismatic mirrors, the reflectance level in the night driving position had to be at least 4 percent. A selective position prismatic mirror can be mechanically tilted to various setting positions. For each setting, there is a different surface with a different reflectance level. The first setting provides relatively high levels of reflectance, typically 85 to 90 percent, for day time driving; and the second setting provides much lower reflectance levels to reduce glare from the headlamps of following vehicles during nighttime driving. Installation of two-position selective position prismatic mirrors has been the principal method of enabling drivers to reduce glare during nighttime driving. Approximately 90 percent of vehicles are currently equipped with center-mounted interior mirrors of the selective position prismatic type.

The agency subsequently amended Standard No. 111's mirror construction requirement to specify that the "average" reflectance level of the reflective film used on any mirror must be at least 35 percent. (41 FR 36023, August 26, 1976)

Since that last amendment, the requirement for mirror construction in S11 has read as follows:

The average reflectance value of the reflective film employed by any mirror required by this standard, determined in accordance with SAE Recommended Practice J964a, August 1974, shall be at least 35 percent. If a mirror is of the selective position prismatic type, the reflectance value in the night driving position shall be at least 4 percent.

Several manufacturers, including General Motors, Chrysler, Ford, BMW, and Range Rover, have equipped vehicles with electrochromic mirrors. These mirrors electrically adjust their reflectance levels based on the amount of light striking the mirror and automatically vary the reflectivity. These manufacturers have apparently concluded that the standard is not design restrictive and does not preclude the use of electrochromic mirror technology.

However, other manufacturers have interpreted S11 as prohibiting low reflectance mirrors other than selective position prismatic ones. For instance, on June 12, 1990, Donnelly Corporation petitioned the agency to amend S11 to permit the installation of its electrochromic mirror. Along with electrically adjusting its reflectance levels based on the amount of light striking the mirror, this mirror maintains the reflectivity above the minimum of 35 percent during daytime conditions and the minimum of 4 percent during nighttime conditions. According to the petitioner, its automatically adjustable non-prismatic electrochromic mirror is not permitted to have a minimum night position less than 35 percent because S11 states the reflectance of 4 percent in the night driving position is only for selective position prismatic mirrors.

Donnelly therefore concluded that S11 should be modified to remove what it views as a design-specific requirement. It claimed that these mirrors improve vision and reduce glare during night driving. It also claimed that its mirror is the first commercially viable means for reducing glare for exterior mirrors. The petitioner further believed that when the requirement permitting selective position prismatic mirrors was issued, these were the only known glare reducing mirrors.

Notice of Proposed Rulemaking

On March 8, 1991, the agency issued a notice of proposed rulemaking (NPRM) proposing to amend S11 of Standard No. 111 to avoid express reference to selective position prismatic mirrors. (56 FR 9928.) The proposal explained the agency's tentative conclusion that an amendment was necessary to clarify the intent and applicability of the provision given its apparent ambiguity. The notice further explained that the amendment would remove a perceived design restriction affecting certain mirror designs.

The NPRM explained that such an amendment is consistent with the agency's philosophy of promulgating standards that are as performance-oriented as possible, consistent with the goal of obtaining specific types of safety performance. While the selective position prismatic mirror was the principal, perhaps only, known glare-reducing mirror technique when the standard was initially promulgated, new technologies are now available which offer other and perhaps improved means for glare reduction. Accordingly, the agency tentatively concluded that adopting the proposal would facilitate the production of new mirror designs that may improve motor vehicle safety. These new technologies may provide better glare protection because they automatically adjust reflectance levels based on the amount of light striking them. In addition, they may be practical for use as exterior mirrors.

The NPRM requested comments on several subissues related to section S11 and multiple reflectance mirrors. These included determining the appropriate wording of the regulatory text to obtain a performance oriented standard that is not design restrictive, eliminating the phrase "reflective film," and updating the section so that it refers to the Society of Automotive Engineers' (SAE) more recent Recommended Practice.

Comments to the NPRM and the Agency's Response

NHTSA received six comments in response to the NPRM. These were from mirror manufacturers (Donnelly and Gentex) and vehicle manufacturers (General Motors, Ford, Chrysler, and Toyota.) The majority of commenters agreed with the general proposal to amend section S11. Ford and Toyota commented about specific provisions in the proposal. The agency has considered the points raised by the commenters in developing the final rule. The agency's discussion of the more significant comments and other relevant information is set forth below.

General Comments

As explained above, S11's express reference to mirrors of the "selective position prismatic type" led to the proposal to amend the provision to clarify its intent and applicability. Accordingly, the proposal omitted reference to "selective position prismatic type" mirrors.

Donnelly, Gentex, General Motors, Ford, and Chrysler all agreed with the proposal's intent to make the standard more performance oriented by deleting language that is specific to certain designs or technologies. The only other commenter, Toyota, was silent about its overall view about the rulemaking.

Regulatory Text

The NPRM also proposed that a mirror provide a reflectance level of at least 35 percent when in its normal operating state and at least 4 percent when in its glare reducing state. In describing these requirements, the proposed regulatory text referred to the "day and night position or mode." The proposal also stated that when a multiple reflectance mirror is "not powered," that state would be considered as equivalent to the day position or mode.

Ford and Toyota were concerned that the proposal would restrict the installation of certain mirror designs that they believed provide adequate levels of safety. In describing its "electro/mechanical mirror," Ford explained that this powered selective prismatic type mirror uses power only to shift the mirror from one reflectance position to another but does not use any power while in either position to provide a reflectance level. Ford further explained that if the power failed, the

mirror could be manually repositioned to the high reflectance level. Ford was concerned that the proposed amendment would prohibit its mirror without providing any significant safety benefit because the failure mode of its mirror is the same as the normal operation of a conventional selective prismatic mirror. Toyota described its liquid crystal interior mirror, which when not powered (i.e., when the ignition key is withdrawn) defaults to the heavily tinted night setting.

"Day/Night Setting"

Ford requested that section S11 be modified to omit reference to the "day" and "night" positions or modes. It believed that the terms "day" and "night" are easily understood for mirrors with only two reflectance levels. Accordingly, Ford suggested that section S11 refer to "maximum" and "minimum" reflectance levels rather than day and night positions or modes.

After reviewing Ford's comment, the agency believes that the terms "day" and "night" help to clarify the reflectance modes described in the standard.

"Not powered"

Ford and Toyota expressed concern about problems involved in complying with the proposed requirement that the mirrors provide reflectance levels of at least 35 percent when they are "not powered." Ford stated that while this requirement is appropriate for mirrors which require electrical power to maintain the maximum reflectance mode, the provision is inappropriate for its powered selective prismatic mirror, which has a fail-safe capacity to shift the mirror to the maximum reflectance mode in case of power failure. Toyota stated that its liquid crystal interior mirror defaults to the low reflectance mode in case of power failure. It did not mention any fail-safe provisions for this mirror in case of power failure. Toyota commented that the requirement for high transmittance in the absence of power is not necessary because the only situation in which the mirror would not be powered is when the key is out of the ignition switch, a time when the mirror is not needed. Toyota further contended that the NPRM failed to justify this provision.

NHTSA agrees with Ford's comments and has modified the final rule so that mirror designs that ensure the viewing of images during all light conditions are not prohibited. Specifically, the final rule omits the phrase "not powered." The final rule also expressly specifies requirements for a fail-safe device permitting the driver to adjust the mirror to the high reflectance mode.

As for the phrase "not powered," NHTSA has determined that the proposal's intent to provide an electrical fail-safe condition can be met by specifying that a multiple reflectance mirror shall either be equipped with a means for the driver to adjust the mirror to a reflectance level of at least 35 percent in the event of electrical failure, or achieve such reflectance level automatically in the event of electrical failure. This language will permit mirror designs like Ford's electro/mechanical mirror, which can be manually adjusted to provide adequate images in case of power failure.

However, the amendment will not permit Toyota's current liquid crystal mirror, since the mirror cannot provide adequate images in the case of power failure. After reviewing the comments, the agency believes that multiple reflectance mirrors should be capable of providing adequate images in the event of electrical failure.

Toyota commented that the proposal should be modified so that its liquid crystal mirror is not prohibited. First, Toyota stated that the requirement for high transmittance in the absence of power is unnecessary, claiming that the only situation in which the mirror would not be powered is when the key is out of the ignition switch, a time when the mirror is not needed. Second, it stated that the preamble to the NPRM did not justify this provision.

In response to Toyota's argument that a high transmittance level is not needed in the absence of power, NHTSA notes that Toyota's liquid crystal mirror defaults to a heavily tinted reflected surface that is incapable of providing a proper image in normal daylight conditions. Accordingly, any time the mirror is not powered, the driver experiences significant reductions in rearward vision because the interior mirror cannot provide an adequate image. Contrary to Toyota's claim that the only time that a mirror would be unpowered is when the key is out of the ignition switch, the agency knows of other situations in which this mirror would be unpowered and thus would not be able to provide high reflectance levels necessary for day time driving. For instance, when there are connector faults or circuit board faults, the mirror would be unpowered, even though the vehicle could be operational. Given the expense of repairing or replacing a liquid crystal mirror, some car owners, particularly those of older cars, would likely be slow to have a failed mirror fixed.

The agency notes that Nippondenso, a supplier of electrical equipment for Toyota, described an opposite polarity fail-safe liquid crystal mirror in a Society of Automative Engineer's paper Fail-Safe Type Liquid Crystal Mirror for Automobiles (870637). This paper described the safety problem as "the breaking of the circuit wire." It also indicated that a fail-safe liquid crystal design "suitable for safe driving" has been achieved by using a liquid crystal layer which is aligned perpendicular rather than parallel to the substrate in the initial unpowered state.

In response to Toyota's second argument about the proposal's preamble not addressing the fail-safe issue, NHTSA notes that the regulatory text provided adequate notice about this issue, and that both Toyota and Ford expressed their views on it.

Given that safety standards are required to meet the need for motor vehicle safety, the rulemaking's overriding focus must be to ensure that mirrors are capable of providing adequate rearview vision at all times during the vehicle's operation. The agency does not believe it would be appropriate to permit new mirror designs with the potential for providing poorer safety performance than selective prismatic mirrors. Selective prismatic mirrors are always capable of providing adequate images because they are adjustable to the high reflectance position, while Toyota's liquid crystal mirror is not.

Reflective Film

The NPRM proposed to amend S11 by deleting reference to the "reflectance value of the reflective film" because this phrase had the potential of being unnecessarily design restrictive. The proposal explained that certain mirrors rely on a substance other than "film" for their reflectance.

Chrysler, which was the only commenter to address this matter, supported the proposal to eliminate the phrase about reflective film. Chrysler agreed with the proposal that there are other substances available that have the ability to reflect light which should be allowed for mirror applications.

Based on the proposal, the agency has decided to adopt the proposal to delete reference to the use of reflective film. Such a requirement had the potential to be design restrictive.

Society of Automotive Engineers (SAE) Recommended Practice

The NPRM proposed to amend S11 by updating it to refer to the SAE's more recent recommended practice. While

S11 currently refers to SAE Recommended Practice J964a, August 1974, the SAE reaffirmed the Recommended Practice without substantive change in October of 1984.

Chrysler, which was the only commenter to address this matter, supported the proposal to update the reference to the more recent SAE practice.

Based on the proposal, the agency has decided to adopt the proposal to update S11 to refer to the more recent SAE practice.

Leadtime

The NPRM explained the agency's tentative conclusion that there was "good cause" to propose an effective date 30 days after publication of the final rule. The agency reasoned that a longer leadtime was not necessary because this amendment would remove a restriction and facilitate the introduction of certain mirrors without imposing any mandatory requirement on manufacturers. The proposal also stated that the public interest would be served by not delaying the introduction of mirrors that may provide better performance without having any negative impact on safety.

Toyota stated that because the proposal would impose a new mandatory requirement on its vehicles equipped with the liquid crystal mirror, additional leadtime was necessary.

NHTSA believes that the amendment allows the present minimum safety performance to be met or exceeded by new technology and does not place new requirements on mirrors. Nevertheless, the agency believes that the 30-day effective date is too short to allow Toyota to comply with the clarification. Toyota apparently introduced a mirror design it believed was in compliance with the standard. Toyota should be given sufficient time to improve or replace a mirror that the agency assumes was designed in good faith during a time in which this rule needed to be clarified. Accordingly, the amendments become effective on September 1, 1992; however, vehicles manufactured before September 1, 1992 may comply voluntarily with this rule's amendments, effective 30 days after publication of this final rule.

Rulemaking Analyses and Notices

Executive Order 12291 (Federal Regulation) and DOT Regulatory Policies and Procedures

NHTSA has determined that this rule is not a major rule under Executive Order 12291 nor a significant rule within the meaning of the Department of Transportation's regulatory policies and procedures. A full regulatory evaluation is not required because the rule will have minimal economic impacts. The rule permits new mirror designs by removing a design restriction instead of imposing any new requirements on mirror or vehicle manufacturers. Therefore, the agency does not anticipate any significant additional costs or any cost savings.

Regulatory Flexibility Act

NHTSA has considered the effects of this rulemaking action under the Regulatory Flexibility Act. Based upon the agency's evaluation, I certify that this rule will not have a significant economic impact on a substantial number of small entities. Vehicle manufacturers typically do not qualify as small entities. While some manufacturers of mirrors may be small entities, the agency believes that the amendment will not have a significant economic impact on them. This amendment will also affect small businesses, small organizations, and small governmental units to the extent that these entities purchase motor vehicles with new mirror designs. As the preceding discussion indicates, the agency's assessment is that this amendment will have no significant cost impact to the industry. Therefore, it will not result in a significant increase in consumer prices.

National Environmental Policy Act

As it is required to do under the National Environmental Policy Act of 1969, NHTSA has considered the environmental impact of this amendment and determined that this rule will not have any significant impact on the quality of the human environment.

Executive Order 12612 (Federalism)

Further, this rulemaking action has been analyzed in accordance with the principles and criteria contained in Executive Order 12612. It has been determined that it will have no Federalism implication that warrants preparation of a Federalism report.

List of Subjects in 49 CFR Part 571

Imports, Motor vehicle safety, Motor vehicles.

In consideration of the foregoing, NHTSA is amending § 571.111 of title 49 of the Code of Federal Regulations as follows:

PART 571—[AMENDED]

1. The authority citation for part 571 continues to read as follows:

Authority: 15 U.S.C. 1392, 1401, 1403, 1407; delegation of authority at 49 CFR 1.50.

2. In § 571.111, S11 is revised to read as set forth below effective on and after September 1, 1992, and may be used at the manufacturer's option before this date, effective December 20, 1991.

§ 571.111 Standard No. 111; Rearview mirrors.

* * * * *

S11. *Mirror Construction.* The average reflectance of any mirror required by this standard shall be determined in accordance with SAE Recommended Practice J964, OCT84. All single reflectance mirrors shall have an average reflectance of at least 35 percent. If a mirror is capable of multiple reflectance levels, the minimum reflectance level in the day mode shall be at least 35 percent and the minimum reflectance level in the night mode shall be at least 4 percent. A multiple reflectance mirror shall either be equipped with a means for the driver to adjust the mirror to a reflectance level of at least 35 percent in the event of electrical failure, or achieve such reflectance level automatically in the event of electrical failure.

* * * * *

Issued on: November 14, 1991.

Jerry Ralph Curry,

Administrator.

[FR Doc. 91-27873 Filed 11-19-91; 8:45 am]

BILLING CODE 4910-59-M

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 685

[Docket No. 910800-1251]

Pelagic Fisheries of the Western Pacific Region

AGENCY: National Marine Fisheries Service (NMFS), NOAA, Commerce.

ACTION: Announcement of effectiveness of collection-of-information requirements.

SUMMARY: NMFS announces the effectiveness of collection-of-information requirements, whereby vessel owners and partnerships or corporations must submit documentation together with limited entry permit and permit transfer applications for the pelagic fisheries of the western Pacific region.

EFFECTIVE DATE: Section 685.15 paragraphs (b)(2), (e)(5), and (f)(3),

published October 16, 1991 (56 FR 51849), are effective November 14, 1991.

FOR FURTHER INFORMATION CONTACT: Svein Fougner, Fisheries Management Division, Southwest Region, NMFS, Terminal Island, California, (213) 514–6660.

SUPPLEMENTARY INFORMATION: A final rule to implement Amendment 4 to the Fishery Management Plan for the Pelagic Fisheries of the Western Pacific Region was published October 16, 1991 (56 FR 51849). Section 685.15 paragraphs (b)(2), (e)(5), and (f)(3) contained collection-of-information requirements subject to the Paperwork Reduction Act that could not be enforced before the Office of Management and Budget (OMB) approved them. Delayed enforcement of those paragraphs was announced in the October 16, 1991, rule pending OMB approval.

Section 685.15 paragraph (b)(2) requires longline vessel owners to submit documentation with their permit applications that identifies the owner(s) of the vessel and demonstrates that the owner(s) meet one or more of the eligibility criteria. Paragraph (e)(5) requires a vessel owner to submit documentation of any changes in ownership of the vessel with a permit transfer application. Paragraph (f)(3) requires partnerships or corporations to submit documentation of a vessel transfer, including the name of each new owner and respective ownership share for each owner of the corporation or partnership obtaining the permit.

OMB has approved these collection-of-information requirements under OMB control number 0648–0204. Section 685.15 paragraphs (b)(2), (e)(5), and (f)(3) are effective November 14, 1991, and will be enforced from that date on.

Dated: November 14, 1991.

David S. Crestin,

Acting Director, Office of Fisheries Conservation and Management, National Marine Fisheries Service.

[FR Doc. 91–27784 Filed 11–14–91; 2:45 pm]

BILLING CODE 3510–22–M

Proposed Rules

Federal Register
Vol. 56, No. 224
Wednesday, November 20, 1991

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

[No. LS-91-007]

7 CFR Parts 53 and 54

Standards for Grades of Lamb, Yearling Mutton, and Mutton Carcasses and Standards for Grades of Slaughter Lambs, Yearlings, and Sheep

AGENCY: Agricultural Marketing Service (AMS), USDA.

ACTION: Proposed rule.

SUMMARY: The Department has been requested by sheep producers to revise the yield grade standards for ovine carcasses. The request cited a recognition that many of the lambs being produced today are too fat to meet the desires of consumers for lean meat products. The feeling was that a revised yield grading system, that would be widely used by the lamb industry, is essential to ensure the efficient production and marketing of the type of lamb products consumers want. The Department concurs with this conclusion. Therefore, AMS is proposing to revise the official U.S. standards for grades of lamb, yearling mutton, and mutton carcasses (and the related standards for grades of slaughter lambs, yearlings, and sheep) to: (1) Require that ovine carcasses be identified for both quality and yield grade when officially graded; (2) require that most of the kidney and pelvic fat be removed from ovine carcasses prior to grading; (3) shift and narrow the fat thickness range in each yield grade; and (4) eliminate consideration of leg conformation score in determining the yield grade.

DATES: Comments must be received by December 20, 1991.

ADDRESSES: Comments must be submitted in duplicate, signed, include the address of the sender, and should bear reference to the date and page number of this issue of the **Federal Register**. The comments should include definitive information which explains and supports the sender's views. Send comments to: Herbert C. Abraham; Livestock and Meat Standardization Branch; Livestock and Seed Division; AMS–USDA; room 2603-South Building; P.O. Box 96456, Washington, DC 20090–6456.

Comments will be available for public inspection during regular business hours in room 2603-South Building; 14th Street and Independence Avenue, SW; Washington, DC.

In addition, a public meeting will be held to give interested parties an opportunity to present oral, as well as written, views, data, or arguments on this proposal. The public meeting will be held in Denver, Colorado, on December 10, 1991, beginning at 9 a.m., local time, and continue until all interested parties have had an opportunity to make their presentations. To facilitate conduct of the meeting, persons who wish to be heard are requested to notify the Livestock and Meat Standardization Branch on or before December 6, 1991, stating that they wish to make a statement and how much time they will need to present the statement. However, any person who wishes to be heard at the meeting will be afforded an opportunity to be heard, whether or not that person has given such advance notice. A written copy of the speaker's statement is requested and may be presented to the presiding official at the meeting.

FOR FURTHER INFORMATION CONTACT: Herbert C. Abraham, Livestock and Meat Standardization Branch—202/720–4486

SUPPLEMENTARY INFORMATION:

Executive Order 12291

This proposed rule regarding grade standards for ovine carcasses and slaughter ovines was reviewed pursuant to Executive Order 12291 and Departmental Regulation No. 1512–1 and has been classified as a non-major rule because (1) it would not have an annual effect on the economy of $100 million or more, (2) it would not result in a major increase in costs or prices for consumers, individual industries, Federal, State, or local government agencies, or geographic regions; and (3) it would not have a significant adverse effect on competition, employment, investment, productivity, innovation, or on the ability of United States based enterprises to compete with foreign based enterprises in domestic or export markets. Accordingly, a regulatory impact analysis is not required.

Effect on Small Entities

This proposed action was reviewed under the Regulatory Flexibility Act (RFA) (5 U.S.C. 601 *et seq.*). The Administrator of the Agricultural Marketing Service has determined that this action would not have a significant economic impact on a substantial number of small entities as defined by the RFA because use of the grade standards is voluntary and the grades are applied equally to all size entities covered by these regulations. In addition, the standards would be of benefit as an improved communication tool to reflect consumer preferences efficiently back to producers.

Paperwork Reduction Act

The provisions of the Paperwork Reduction Act do not apply to this rulemaking since it does not require the collection of any information or data.

Background

Yield grades for ovine carcasses and slaughter ovines were promulgated by the Department in 1969 for use on a voluntary basis by users of the Federal grading service. The development of the standards was prompted by the Department's recognition of significant differences in the fatness of sheep and thus in retail yields and value of the ovine carcasses being produced. The yield grade standards for ovines were patterned in concept upon yield grades for beef which were adopted in 1965, and were based on research (Journal of Animal Science 26:896) specifically designed to provide a scientific basis for grading.

The value of the yield grades for beef was recognized by the industry soon after they were adopted, and the use of those grades on a voluntary basis grew steadily between 1965 and 1975. By 1975 the ability of the yield grades to segregate retail value differences among beef carcasses had been accepted by the industry. At that time, at the request of the beef industry, the quality and yield grades were "coupled" to require both quality and yield grade identification when beef carcasses were officially graded. This resulted in almost all beef carcasses which were Prime or Choice

quality and Yield Grades 1, 2, or 3 being graded. Purchasers of ungraded beef carcasses were usually aware that they were purchasing lower quality or fatter beef. Significant price spreads developed between some of the yield grades, an indication of the importance that purchasers placed on yield grades. Between 1975 and 1989 the average yield grades for graded beef carcasses improved noticeably, indicating the shift in production to meet the demands for leaner products. In 1989 the beef quality and yield grades were "uncoupled" to allow the industry the opportunity to adopt new trimming technologies without preventing the quality grading of beef. Some opponents of "uncoupling" felt this would be the end of yield grading. However, since they had proven their value while the grades were "coupled," the amount of beef being yield graded has actually increased since 1989.

Although the beef yield grades have become widely used, resistance within the industry to the use of yield grades for lamb carcasses has resulted in lamb yield grades for the most part being unused. This resistance was partly a result of the recognition that the yield grades would be difficult to apply without significantly slowing down the grading operation, and that a large percentage of lambs being produced were Yield Grade 4's and 5's which might be difficult to sell if identified as such. Experienced observers recognize that many of the Yield Grade 4's and 5's occur at least partly as the result of very large amounts of kidney and pelvic fat in some carcasses. As early as 1973, the Department recognized that changes in the yield grades would be of benefit to everyone from producers to consumers. However, lack of interest, if not outright opposition, by the industry resulted in no action being taken until the present time.

In recent years it has become increasingly clear that today's consumers are demanding less fat in all of the products they buy. The beef and pork industries recognized these trends and have made significant strides in recent years in offering leaner cuts of meet to consumers. The lamb industry has lagged in this regard and only recently has there been a consensus of opinion that some action must be taken to produce a leaner product. As a first step in producing a leaner product, they realized that there must be a method of identifying value differences in lamb carcasses so that everyone would be compensated on the basis of the desirability of the type of product they produced. A tool for doing this is yield grades.

As adopted in 1969 (**Federal Register**, January 8, 1969), the yield grades for ovine carcasses are based on: (1) The thickness of external fat over the ribeye; (2) the amount of kidney and pelvic fat inside the carcass, and (3) the leg conformation score. Use of the grades is voluntary on the part of the users of the grading service. Although a vast majority of the lamb carcasses which qualify for Prime and Choice are graded for quality, almost no lamb carcasses have been identified for yield grade in the 22 years of availability of the service. In their request to the Department, the lamb producers, represented by the American Sheep Industry Association (ASI), recognized that there would be no benefit derived if the yield grades were not used. Therefore, in order to assure their use, they requested that the regulations be changed to require that all ovine carcasses officially graded be identified for both quality grade and yield grade, thereby providing the industry with the most complete information available to identify differences in value.

The kidney and pelvic fat in the interior of the ovine carcass has little or no value to retailers and consumers. However, because it contributes to dressing percentage (carcass weight as a percent of live weight), it does provide an economic incentive to make lambs overfat when producers/feeders are paid on the basis of carcass weights without consideration of yield grade. Experienced observers know that sometimes the kidney and pelvic fat in a lamb carcass can exceed 10 percent of the carcass weight. The National Lamb Carcass Cutability Survey conducted by Colorado State University in 1987 (CSU 1987) confirmed this observation. Removal of this fat from the carcass would make it more attractive to purchasers of lamb carcasses and remove an incentive to produce excess fat. Therefore, ASI requested that the regulations be amended to require the removal of kidney and pelvic fat prior to grading of ovine carcasses. The actual weight and value of the retail cuts from a lamb carcass is the same whether the kidney and pelvic fat are present or removed. However, the percentage of retail cuts from a carcass is increased when the kidney and pelvic fat are removed because the same cuts come from a lighter weight carcass. Thus the per pound value of a carcass is greater for a carcass with the kidney and pelvic fat removed. Because of the decreased dressing percentage, and increased carcass value per pound, it will be necessary for the industry to make some adjustments in the way lambs and lamb carcasses are traded. However, the changes should be clearly in the favor of those producers of the more desirable kind of lambs. One argument against kidney and pelvic fat removal is that it is a better indication of seam fat in cuts than is external fat. There is some evidence to suggest that this might be true, especially in the shoulder. But the shoulder is the least valuable of the major cuts, and the benefits of kidney and pelvic fat removal far outweight the slight loss in predictability of seam fat.

The ASI request asked for the removal of "all" kidney and pelvic fat for ovine carcasses to be eligible for grading. Since removal of every bit of kidney and pelvic fat would not be feasible under some circumstances, the Department felt that some tolerance should be allowed for this requirement. Grading experts believed that 1.0 percent or more kidney and pelvic fat might be present when inexperienced evaluators may consider it all to be removed. Demonstration of kidney and pelvic fat removal from hot and chilled carcasses, followed by discussions with industry representatives, resulted in agreement that up to 1.0 percent of the carcass weight in kidney and pelvic fat should be allowed in carcasses eligible for grading. This requirement could be accomplished with minimal effort on the slaughter floor, but would require more work to achieve on chilled carcasses with large amounts of these fats. Allowing more than 1.0 percent to remain was not considered to be acceptable since larger amounts would have a significant effect on trimmed cut yields from the carcasses.

Leg conformation scores are a part of the percent ovine yield grades, but their contribution to predictions of yields of trimmed cuts (as shown by the B value for leg score in the yield grade equation) is recognized as being slight. Because leg conformation is determined by visual inspection, variation in application of this factor is subject to error which may exceed its value in grading, prompting ASI to suggest that leg score be dropped as a grade factor.

With most of the kidney and pelvic fat removed from the carcass, and leg conformation score dropped as a grade factor, only fat thickness over the ribeye is left as the basis for determining the yield grade of ovine carcasses. Based on evaluation of a number of research studies published in the Journal of Animal Science and elsewhere, it was concluded that this factor alone was of sufficient importance that it could be the basis of an accurate grading system. No

other factor which would lend itself to use in a grading system was considered to be of sufficient value to justify adding it as a factor. However, compared to the current grading system, ASI suggested that the grade lines be shifted and the fat thickness width for each grade be narrowed to be more meaningful. ASI originally suggested the following grade lines: Yield Grade 1—0.10 to 0.18 inch; Yield Grade 2—0.19 to 0.27 inch; Yield Grade 3—0.28 to 0.36 inch; Yield Grade 4—0.37 to 0.45 inch; and Yield Grade 5—9.46 inch and up.

Since receiving the initial request for revision of the grade standards, representatives of ASI and USDA have met to discuss the implications of the various changes proposed. In addition, two studies have been conducted, in conjunction with the lamb industry and land-grant universities, to ascertain the best way to apply the proposed standards. Information collected has been analyzed by Colorado State University and is available upon request. The ASI proposal had a range of 0.09 inch of fat in each yield grade. From a grading application standpoint a range of 0.10 in each grade would be much easier to apply. Since 0.25 inch of fat was considered to be the line between desirable and somewhat overfat lambs, this point was selected as the maximum fatness for Yield Grade 2. The other grades were scaled in 0.10 inch increments from that point. Also, carcasses with less than 0.10 inch of fat cannot be excluded from the grading system and therefore must be included in Yield Grade 1. Colorado State University and Texas A&M University have conducted a number of studies of lamb carcass cutability in cooperation with USDA. Based on those studies, it was decided to base the revised yield grades on a combination of boneless and semiboneless cuts trimmed to 0.10 inch of fat. Expected yields for each yield grade and further information on these studies is available and will be published separately.

One consideration in these studies was the possibility of using body wall thickness as an alternative to fat thickness over the ribeye to determine yield grade. It was believed that body wall thickness would be easier and more accurate for use in an electronic grading system (previous research by University of Wyoming researchers and others has shown that body wall thickness was nearly as good as fat over the ribeye in predicting yields). This could work if a constant body wall thickness could be associated with a given thickness of fat over the ribeye. However, observation of a number of carcasses, and subsequent analysis of a number of carcass measurements, showed that for a given fat thickness the carcass weight must be considered if body wall thickness is substituted. A grading system using body wall thickness and carcass weight is feasible, but it would require weighing of carcasses and making a measurement that is difficult to obtain rapidly. Such a grading system would be more complicated and more difficult to apply than the proposed grading system using only fat over the ribeye.

A major concern addressed in the studies conducted was the ability of Federal meat graders to rapidly and accurately apply the yield grades. An electronic measuring device and various probes and rulers were used to measure fat over the ribeye and the body wall thickness on both unribbed and ribbed lamb carcasses. These measurements were compared to visual evaluations of fat thickness made by trained evaluators. These studies supported the use of visual evaluations as an acceptable method of evaluating yield grade for most ovine carcasses. However, measurement of fat over the ribeye will improve accuracy, and it will be necessary for graders to develop their evaluation skill by measuring the fat on a number of carcasses over a period of time. Ribbing or slicing through the fat over the ribeye could increase the number of carcasses which can be graded without measuring or facilitate measurements for graders. Even under the best of circumstances, however, it must be recognized that the level of accuracy expected in quality grading cannot be achieved in yield grading. However, it is fully expected that yield grading will increase the time and costs of grading ovine carcasses only slightly, and that groups of carcasses sorted by yield grade will be very uniform in appearance even if there is some variation in measured fatness within groups and some overlap between groups. A major concern in application of yield grades is that the measures used to determine the grade must be a true reflection of the fatness of the carcass. Therefore, the standards will prohibit trimming of fat to influence the yield grade. Also, since the predicted yields would not apply to trimmed carcasses or small cuts, the standards will allow the removal of yield grade designations from all cuts or carcasses with a maximum of 0.25 inch of fat at any point or from all boneless subprimal or retail cuts.

The Department has developed a proposal to revise the ovine carcass standards to accomplish the goals stated by ASI in its request for revisions. The lamb industry is nearly unanimous in recognition of the need to reduce fatness on lamb carcasses. This recognition has been communicated through expression of support for the ASI request by a majority of the lamb industry. There is, not unexpectedly, some opposition to parts of the request from some segments of the industry, most notably in the lamb feeding segment.

The Department recognizes that kidney and pelvic fat removal will create some short-term problems for the industry which will result in some opposition to the proposed changes. However, the Department feels that the proposed changes are in the overall best long-term interests of both consumers and the entire lamb industry. Therefore, the following changes are proposed: (1) All ovine carcasses would be identified for both quality and yield grades when officially graded; (2) carcasses with more than 1.0 percent of their weight in kidney and pelvic fat would not be eligible for grading; (3) leg conformation scores would be dropped as a grade factor and the yield grade would be based on fat thickness over the ribeye, and (4) the fat thickness range for each yield grade would be as follows: Yield Grade 1—0.00 to 0.15 inch; Yield Grade 2—0.16 to 0.25 inch; Yield Grade 3—0.26 to 0.35 inch; Yield Grade 4—0.36 to 0.45 inch; and Yield Grade 5—0.46 inch fat and greater.

The standards for slaughter ovines, which are based on the ovine carcass standards, would be revised to reflect the changes proposed for the ovine carcass grade standards. Grades for slaughter ovines are intended to be directly related to the grades of the carcasses they produce.

List of Subjects

7 CFR Part 53

Grading and certification, Standards, Lambs, Yearlings, Sheep.

7 CFR Part 54

Grading and certification, Standards, Lamb, Yearling mutton, Mutton, Ovine carcasses, Meat and meat products.

Accordingly, it is proposed that certain sections of the standards appearing in 7 CFR part 54 as they relate to meats, prepared meats, and meat products, and certain sections of the standards appearing in 7 CFR part 53 as they relate to livestock, be revised as set forth below.

PART 53—LIVESTOCK (GRADING, CERTIFICATION, AND STANDARDS)

1. The authority citation for part 53 continues to read as follows:

Authority: Agricultural Marketing Act of 1946, sec. 203, 205, as amended, 60 Stat. 1087, 1090, as amended (7 U.S.C. 1622 and 1624)

2. 7 CFR 53.132 and 7 CFR 53.136 are revised to read as follows:

§ 53.132 Application of standards.

(a) *Grade factors.* Grades of slaughter ovines are intended to be directly related to the grades of the carcasses they produce. To accomplish this, these slaughter ovine grade standards are based on factors which are directly related to the quality grades and yield grades of ovine carcasses. The standards are written so that the quality and yield grade standards are contained in separate sections. The quality grade standards are further divided into three sections applicable to slaughter lambs, slaughter yearlings, and slaughter sheep. There are four quality grades within each class—Prime, Choice, Good, and Utility for lambs and yearlings; and Choice, Good, Utility, and Cull for sheep. Also, there are five yield grades applicable to all classes of slaughter ovine, denoted by numbers 1 through 5, with Yield Grade 1 representing the highest degree of cutability. When officially graded slaughter ovines are identified for both quality and yield grades.

(b) *General principles.* (1) The determination of the carcass grade that the slaughter animal will produce requires the exercise of well-regulated judgment. Each animal presents a different combination of the grade-determining factors. Animals frequently have characteristics associated with two or more grades. Therefore, a composite evaluation of all inherent physical characteristics is essential for accuracy in determining grade.

(2) The accurate determination of the grade of a slaughter ovine requires handling in addition to visual observation. The length and density of the fleece vary greatly with individuals, and the thickness and firmness of the flesh covering of wooled ovine can only be roughly estimated without handling. The technique used in handling usually varies with the degree of precision in mind as well as the experience of the grader. Experienced graders may find one quick handling statisfactory. This usually consists of placing one open hand over the back and ribs in simultaneous motion. The thumb extends just over the backbone, while the fingers, which are held close together, cover the rib section, and pressure is applied very lightly with a slight lateral and forward and backward motion. The generally accepted technique of handling ovines where time permits, and especially when noting slight differences between individuals, is to handle forward from the dock to neck with the open hand, fingers together, laid flat and with a slight lateral motion. Both hands may be used, one on each side, in a similar manner to determine the fleshing over the shoulders, ribs, and hips. Regardless of the method, considerable experience is necessary in handling ovine to accurately determine the grade.

(c) *Quality grades.* (1) The quality grade of a slaughter ovine is determined by a composite evaluation of two general considerations which influence carcass excellence: conformation and quality—fatness, maturity, and other indicators of differences in palatability of the lean flesh.

(2) Conformation refers to the general body proportions of the animal and to the ratio of meat to bone. Although primarily determined by the inherent muscular and skeletal systems, it is also influenced by the degree of fatness. However, external fat in excess of that normally left on retail cuts is not considered in evaluating conformation. The conformation descriptions included in each of the grade specifications refer to the thickness of muscling and to an overall degree of thickness and fullness of the animal. Slaughter ovines which meet the requirements for thickness of muscling specified for a grade will be considered to have conformation adequate for that grade despite the fact that, because of a lack of fatness, they may not have the overall degree of thickness and fullness described. Conformation is evaluated by averaging the conformation of the various component parts, giving special consideration to those parts of the body producing the more desirable cuts of meat—loin, hotel rack, and leg.

(3) In grading slaughter ovines, quality of the lean must be evaluated indirectly by considering the quantity, distribution, and type of fat or finish in relation to the maturity of the animal being graded. Finish is evaluated by noting variations in the fullness and apparent thickness of the fat covering over the back, loin, ribs, and legs. A high degree of desirable finish is evidenced by a firm, smooth layer of fat which is uniformly distributed over the body. To be eligible for the Prime or Choice grades, a slaughter ovine must have at least a very thin covering of external fat over the top of the shoulders and the outside of the legs, and the back must have at least a thin (approximately 0.07 inch) covering of fat.

(4) Although the market designation of slaughter ovines is usually made by classes, the quality standards are intended to apply to all classes without regard to sex condition. However, male animals which have thick, heavy necks and shoulders typical of uncastrated males are discounted in grade in proportion to the extent to which these characteristics are developed. Such discounts may vary from less than one-half a grade in young lambs in which such characteristics are barely noticeable, to as much as two full grades in mature rams in which such characteristics are very pronounced.

(d) *Yield grades.* (1) The yield grades for slaughter ovines (like the grades for ovine carcasses) are based on the thickness of fat over the ribeye. As the amount of external fat increases, the percent of retail cuts decreases and the numerical yield grade increases. The adjusted fat thickness range for each yield grade is as follows: Yield Grade 1—0.00 to 0.15 inch; Yield Grade 2—0.16 to 0.25 inch; Yield Grade 3—0.26 to 0.35 inch; Yield Grade 4—0.36 to 0.45 inch; and Yield Grade 5—0.46 inch and greater. On slaughter ovines which do not have a normal distribution of external fat, the fat thickness estimate over the ribeye may be adjusted, as necessary, to reflect unusual amounts of fat on other parts of the animal. In fact an evaluation of overall fatness, or direct estimation of yield grade may be preferred by experienced evaluators.

(2) The overall fatness of an animal can be determined best by giving particular attention to those parts on which fat is deposited at a faster-than-average rate. These include the back, loin, rump, flank, breast, and cod or udder. As ovines increase in fatness these parts become progressively fuller, thicker, and more distended in relation to the thickness and fullness of the other parts, particularly the legs. However, since an animal's thickness of muscling also affects the development of its various parts, this also needs to be considered when evaluating the degree of fatness. In thinly muscled ovines with a low degree of finish, the width of the back usually will be greater than the width through the center of the legs. Conversely, in thickly muscled ovines with a low degree of finish, the thickness through the legs will be greater than through the back and the back will be full and rounded. At an intermediate degree of fatness, ovine which are thinly muscled will be considerably wider through the back than through the leg and will be nearly

flat across the back. Thickly muscled ovines that have an intermediate degree of fatness will be about the same width through the legs as through the back and the back will appear only slightly rounded. Very fat ovines will be wider through the back than through the legs, but this difference will be greater in thinly muscled ovines than in those that are thickly muscled. As ovines increase in fatness, they also become deeper bodied because of large deposits of fat in the flanks and breast and along the underline.

(e) *Other considerations.* (1) Other factors, such as sex, heredity, and management also may affect the development of grade-determining characteristics in slaughter ovines. Although these factors do not lend themselves to descriptions in the standards, the use of factual information of this nature is justified in determining the grade of slaughter ovines. The ability to make proper allowances for the effects of genetic and management factors on the appearance of grade-determining characteristics must be developed through experience.

(2) Slaughter ovines qualifying for any particular grade may vary with respect to the relative development of their individual grade factors. In fact, some will qualify for a particular grade although they have some characteristics more typical of ovine in another grade. Because it is impracticable to describe the nearly infinite number of such recognizable combinations of characteristics, the standards describe only ovines which have a relatively similar development of the various quality and yield grade-determining factors and which are near the lower limits of quality or yield for the grade. However, examples of the extent to which superiority in quality-indicating characteristics may compensate for deficiencies in conformation, and vice versa, are indicated for each quality grade. In the slaughter lamb quality grade standards, the requirements are given for two maturity groups. In the yield grade standards, fat thickness descriptions are give for slaughter ovines which are near the maximum fatness for each of the first four yield grades.

§ 53.136 Specifications for official U.S. standards for grades of slaughter lambs, yearlings, and sheep (yield).

(a) *Yield Grade 1.* Yield Grade 1 slaughter lambs, yearlings, and sheep produce carcasses which have very high yields of boneless retail cuts. Ovines with characteristics qualifying them for the lower limits of Yield Grade 1 (near the borderline between Yield Grade 1 and Yield Grade 2) will have only a slightly thin covering of external fat over the back, loin, and ribs, and a slightly thick covering of fat over the rump. They are slightly shallow through the flanks and the brisket and cod or udder have some evidence of fullness. In handling, the backbone, ribs, and ends of bones at the loin edge are slightly prominent. A carcass produced from slaughter ovines of this description might have 0.15 inch of fat over the ribeye.

(b) *Yield Grade 2.* Yield Grade 2 slaughter lambs, yearlings, and sheep produce carcasses with high yields of boneless retail cuts. Ovines with characteristics qualifying them for the lower limits of Yield Grade 2 (near the borderline between Yield Grade 2 and Yield Grade 3) will have a slightly thick layer of external fat over the back, loin and ribs, and a thick covering of fat over the rump. They tend to be slightly deep and full through the flanks and the brisket and cod or udder are moderately full. In handling, the backhone, ribs, and ends of bones at the loin edge are readily discernible. A carcass produced from slaughter ovines of this description might have 0.25 inch of fat over the ribeye.

(c) *Yield Grade 3.* Yield Grade 3 slaughter lambs, yearlings, and sheep produce carcasses with intermediate yields of boneless retail cuts. Ovines with characteristics qualifying them for the lower limits of Yield Grade 3 (near the borderline between Yield Grade 3 and Yield Grade 4) will have a thick covering of fat over the back and loin and a very thick covering of fat over the rump and down over the ribs. The flanks are deep and full and the brisket and cod or udder are full. In handling, the backbone, ribs, and ends of bones at the loin edge are difficult to distinguish. A carcass produced from slaughter ovines of this description might have 0.35 inch of fat over the ribeye.

(d) *Yield Grade 4.* Yield Grade 4 slaughter lambs, yearlings, and sheep produce carcasses with moderately low yields of boneless retail cuts. Ovines with characteristics qualyfing them for the lower limits of Yield Grade 4 (near the borderline between Yield Grade 4 and Yield Grade 5) will have a very thick covering of fat over the back and loin, and an extremely thick covering of fat over the rump and down over the ribs. The flanks are moderately deep and full and the brisket and cod or udder are full. In handling, the backbone, ribs, and ends of bones at the loin edge are not discernible. A carcass produced from slaughter ovines of this description might have 0.45 inch of fat over the ribeye.

(e) *Yield Grade 5.* Yield Grade 5 slaughter lambs, yearlings, and sheep produce carcasses with low yields of boneless retail cuts. Ovines of this grade consist of those not meeting the minimum requirements of Yield Grade 4 because of more fat.

PART 54—MEATS, PREPARED MEATS, AND MEAT PRODUCTS (GRADING, CERTIFICATION, AND STANDARDS)

1. The authority citation for part 54 continues to read as follows:

Authority: Agricultural Marketing Act of 1946, sec. 203, 205, as amended, 60 Stat. 1087, 1090, as amended (7 U.S.C. 1622 and 1624)

2. 7 CFR 54.123 and 7 CFR 54.127 are revised to read as follows:

§ 54.123 Applications of standards.

(a) *Grade Factors.* (1) The grade of an ovine carcass is based on separate evaluations of two general consideration: Palatability—indicating characteristics of the lean and conformation, herein referred to as "quality," and the estimated percent of closely trimmed (0.10 inch fat or less), semi-boneless and boneless, major retail cuts to be derived from the carcass, herein referred to as "yield." The term "quality" has traditionally been used to refer only to the palatability-indicating characteristics of the lean without reference to conformation. Its use herein to include consideration of conformation is not intended to imply that variation in conformation are either directly or indirectly related to differences in palatability. When officially graded by a Federal meat grader, the grade of an ovine carcass shall consist of a combination of both a quality grade and a yield grade. The yield grade designation may be removed from officially graded ovine carcasses, sides, quarters, wholesale cuts, or combinations of wholesale cuts on which the external fat (natural or trimmed) does not exceed 0.05 inch in thickness at any point. The yield grade designation may be removed from boneless subprimal cuts or retail cuts (bone-in or boneless) without trimming of external fat. In instances where removal of the yield grade designation is permitted, the USDA grade may consist of the quality grade designation only.

(2) The grade standards are written so that the quality and yield grade standards are contained in separate sections. The quality grade section is divided further into three separate sections applicable to lamb, yearling mutton, and mutton carcasses. There are four quality grade within each class—Prime, Choice, Good, and Utility for

lamb and yearling mutton, and Choice, Good, Utility, and Cull for mutton. There are five yield grades applicable to all classes of ovine carcasses, denoted by numbers 1 through 5, with Yield Grade 1 representing the highest degree of cutability.

(3) To be eligible for grading, ovine carcasses cannot have more than 1.0 percent of their carcass weight in kidney and pelvic fat. If more than 1.0 percent of kidney and pelvic fat is present in the carcass naturally, the excess fat must be removed prior to offering it for grading. The fact considered in making this determination includes the kidney knob (kidney and surrounding fat) and the lumbar and pelvic fat in the loin and leg. The amount of these fats is evaluated subjectively and expressed as a percent of the carcass weight. Trimming of external fat for the purpose of altering the yield grade shall be considered a fraudulent or deceptive practice in connection with the services requested for such carcasses. Carcasses that have has external fat or lean removed for Federal meat inspection compliance may be graded only if the official grader determines that an accurate grade determination can be made. Entire carcasses with more than minor amounts of lean removed from the major wholesale cuts (leg, loin, rack, and shoulder) shall not be eligible for a grade determination. However, the portions of such carcasses not affected by lean removal shall be eligible for grading, provided an accurate grade determination can be made.

(4) Carcasses qualifying for any particular grade may vary with respect to the relative development of their individual grade factors, and there will be carcasses which qualify for a particular grade in which the development of some of these individual grade factors will be more typical of other grades. Because it is impractical to describe the nearly limitless number of such recognizable combinations of characteristics, the standards for each quality and yield grade describe only carcasses which have a relatively similar development of individual factors and which are also representative of the lower limits of each grade. In the quality grade standards, examples of the extent to which superiority in quality may compensate for deficiencies in conformation, and vice versa, are indicated for each grade. In the Prime and Choice grades certain minimum requirements for external fat covering also are indicated.

(b) *Quality grades.* (1) The quality grade of an ovine carcass is based on separate evaluations of two general considerations—the quality, or the palatability-indicating characteristics of the lean, and the conformation of the carcass.

(2) Conformation is the manner of formation of the carcass with particular reference to the relative development of the muscular and skeletal systems, although it also is influenced to some extent by the quantity and distribution of external finish. However, external fat in excess of that normally left on retail cuts is not considered in evaluating conformation. The conformation descriptions included in each of the grade specifications refer to the thickness of muscling and to an overall degree of thickness and fullness of the carcass. However, carcasses which meet the requirements for thickness of muscling specified for a grade will be considered to have conformation adequate for that grade despite the fact that, because of a lack of fatness, they may not have the overall degree of thickness and fullness described. The conformation of a carcass is evaluated by averaging the confirmation of its various component parts, giving consideration no only to the proportion that each cut is of the carcass weight but also to the general desirability of each cut as compared with other cuts. Superior conformation implies a high proportion of edible meat to bone and a high proportion of the weight of the carcass in the more demanded cuts and is reflected in carcasses which are very thickly muscled, very wide and thick in relation of their length, and which have a very plump, full, and well-rounded appearance. Inferior conformation implies a low proportion of edible meat to bone and a low proportion of the weight of the carcass in the more demanded cuts and is reflected in carcasses which are very thinly muscled, very narrow in relation to their length, and which have a very angular, thin, and sunken appearance.

(3) The quality of the lean flesh is best evaluated by consideration of its texture, firmness, and marbling, as observed in a cut surface, in relation to the apparent maturity of the animal from which the carcass was produced. However, in grading ovin carcasses, direct observation of these characteristics usually is not possible. Therefore, the quality of the lean is evaluated indirectly by giving consideration to the quantity of fat streakings within and upon the inside flank muscles in relation to the apparent evidence of maturity. Within each grade, the requirements for flank fat streakings increase progressively with evidences of advancing maturity. To facilitate the application of this principle, the relationship between flank fat streakings, maturity, and quality is shown in Figure 1. Flank fat streakings are categorized in descending order of quantity as follows: Abundant, moderately abundant, slightly abundant, moderate, modest, small, slight traces, practically devoid, and devoid. In addition, the standards specify a minimum degree of firmness of lean flesh and external fat for each grade and a minimum degree of external fatness for carcasses in the Prime and Choice grades. The different degrees of firmness in descending order of firmness are: Extremely firm, tends to be extremely firm, firm, tends to be firm, moderately firm, tends to be moderately firm, slightly firm, tends to be slightly firm, tends to be slightly soft, slightly soft, tends to be moderately soft, moderately soft, soft, and very soft.

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RELATIONSHIP BETWEEN FLANK FAT STREAKINGS, MATURITY AND QUALITY

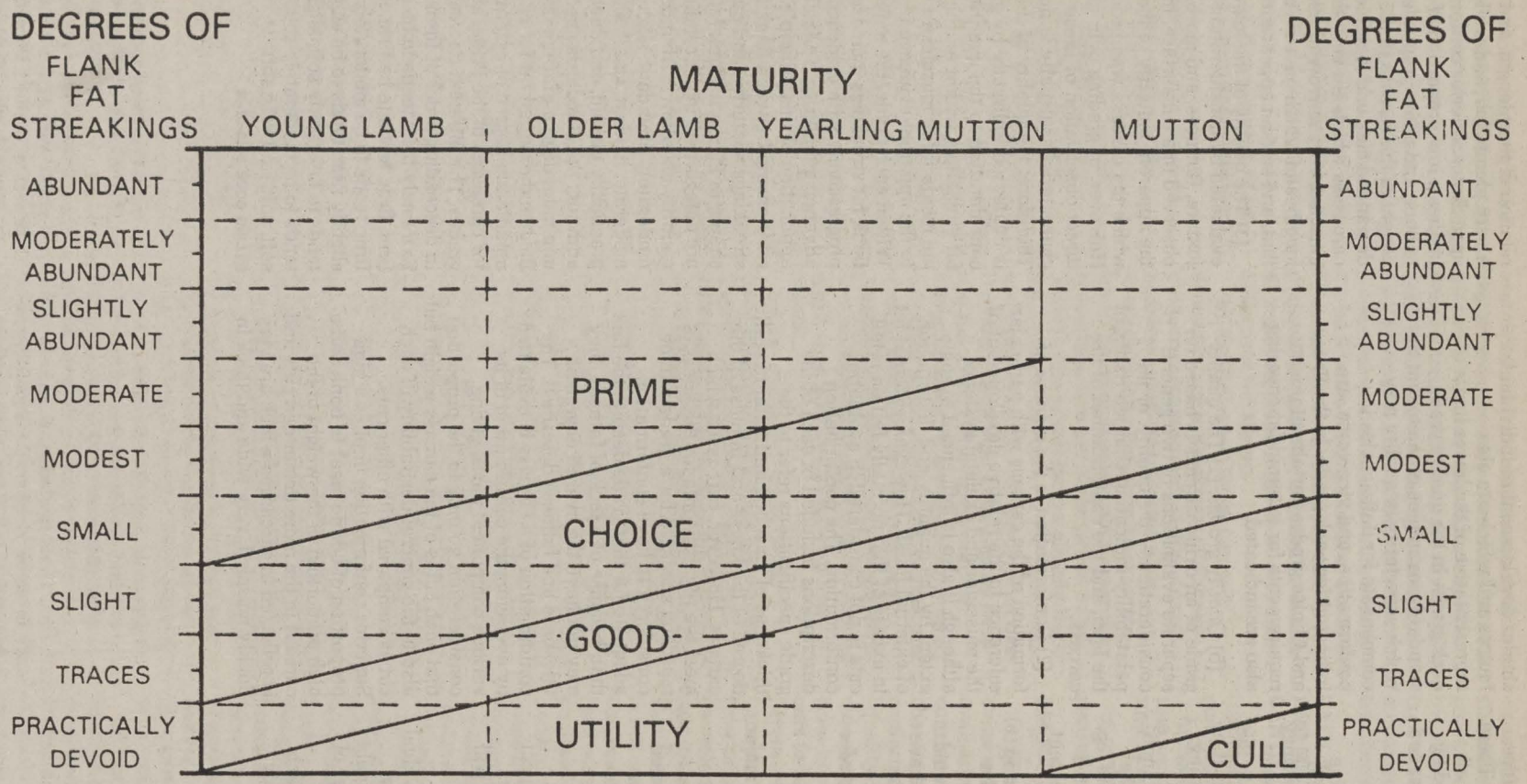

Figure 1

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(4) The quality standards are intended to apply to all ovine carcasses without regard to the apparent sex condition of the animal at time of slaughter. However, carcasses from males which have thick, heavy necks and shoulders typical of uncastrated males are discounted in quality grade in accord with the extent to which these characteristics are developed. Such discounts may vary from less than one-half grade in carcasses from young lambs in which such characteristics are barely noticeable to as much as two full grades in carcasses from mature rams in which such characteristics are very pronounced.

(c) *Yield grades.* (1) The yield grade of an ovine carcass is based on the amount of external fat present.

(2) The amount of external fat for carcasses with a normal distribution of this fat is evaluated in terms of its actual thickness over the center of the ribeye muscle and is measured perpendicular to the outside surface between the 12th and 13th ribs. On carcasses which do not have a normal distribution of external fat, the fat thickness measurement over the ribeye may be adjusted, as necessary, to reflect unusual amounts of fat on other parts of the carcass. In determining the amount of this adjustment, particular attention is given to the amount of external fat on those parts where fat is deposited at a faster-than-average rate, particularly the rump, outside of the shoulders, breast, flank, and cod or udder. Thus, in a carcass which is fatter over these parts than is normally associated with the actual fat thickness over the ribeye, the measurement is adjusted upward. Conversely, in a carcass which has less fat over these parts than is normally associated with the actual fat thickness over the ribeye, the measurement is adjusted downward. In many carcasses no such adjustment is necessary; however, an adjustment in the thickness of fat measurement of 0.05 inch is not uncommon. In some carcasses a greater adjustment may be necessary. As a guide in making these adjustments, the standards for each yield grade include an additional related measurement—body wall thickness, which is measured 5 inches laterally from the middle of the backbone between the 12th and 13th ribs. As the amount of external fat increases, the percent of retail cuts decreases—each 0.05 inch change in adjusted fat thickness over the ribeye changes the yield grade by one-half of a grade.

(3) When the ribeye is exposed for grading the official grader may estimate or measure the fat thickness, as necessary. On intact ovine carcasses, the official determination of the external fat thickness is made by probing with an approved measuring device. Also, visual evaluations of the fat thickness of intact carcasses may be made at the discretion of the official grader. Because small variations in fat thickness may change the final yield grade significantly, it is essential that an accurate fat thickness evaluation be made. Therefore, official graders are expected to take the time necessary to make accurate measurements when visual evaluations are in doubt. Applicants for grading can facilitate visual evaluations by cutting through the fat down to the lean over the ribeye on at least one side of the carcass after carcasses are properly chilled. Such a cut will greatly enhance both the speed and accuracy of yield grade evaluations.

(4) The adjusted fat thickness range for each yield grade is as follows: Yield Grade 1—0.00 to 0.15 inch; Yield Grade 2—0.16 to 0.25 inch; Yield Grade 3—0.26 to 0.35 inch; Yield Grade 4—0.36 to 0.45 inch; and Yield Grade 5—0.46 inch and greater. For carcass evaluation programs and other purposes when position within a yield grade is desired, each 0.01 inch change in fatness within these ranges would equate to a change of one-tenth of a yield grade. The following equation may be used to convert adjusted fat thickness to yield grade: Yield Grade = 0.4 + (10 × Adjusted fat thickness, inches).

(5) The yield grade standards for each of the first four yield grades list characteristics of a carcass with descriptions of the amount of external fat normally present on various parts of the carcass. These descriptions are not specific requirements—they are included only as illustrations of carcasses which are near the borderline between grades. For example, the characteristics listed for Yield Grade 1 represent a carcass which is near the borderline of Yield Grade 1 and Yield Grade 2. These descriptions facilitate the visual determination of the yield grade without making detailed measurements.

§ 54.127 Specifications for official U.S. standards for grades of carcass lamb, yearling mutton, and mutton (yield).

(a) The yield grade of an ovine carcass or side is determined on the basis of the adjusted fat thickness over the ribeye muscle between the 12th and 13th ribs. The adjusted fat thickness range for each yield grade is as follows: Yield Grade 1—0.00 to 0.15 inch; Yield Grade 2—0.16 to 0.25 inch; Yield Grade 3—0.26 to 0.35 inch; Yield Grade 4—0.36 to 0.45 inch; and Yield Grade 5—0.46 inch and greater.

(b) The following descriptions provide a guide to the characteristics of carcasses in each yield grade to aid in determining yield grades subjectively.

(1) *Yield Grade 1.* (i) A carcass in Yield Grade 1, which is near the borderline with Yield Grade 2, usually has only a thin layer of external fat over the back and loin and slight deposits of fat in the flanks and cod or udder. There is usually a very thin layer of fat over the top of the shoulders and the outside of the legs. Muscles are usually plainly visible on most areas of the carcass.

(ii) A carcass in Yield Grade 1 with the maximum amount of fat allowed would have an adjusted fat thickness of 0.15 inch. Such a carcass with normal fat distribution and weighing 55 pounds would also have a body wall thickness of about 0.75 inch, and one weighing 75 pounds would have a body wall thickness of about 0.85 inch.

(2) *Yield Grade 2.* (i) A carcass in Yield Grade 2, which is near the borderline with Yield Grade 3, usually has a slightly thin layer of fat over the back and loin and the muscles of the back are not visible. The top of the shoulders and the outside of the legs have a thin covering of fat and the muscles are slightly visible. There are usually small deposits of fat in the flanks and cod or udder.

(ii) A carcass in Yield Grade 2 with the maximum amount of fat allowed would have an adjusted fat thickness of 0.25 inch. Such a carcass with normal fat distribution and weighing 55 pounds would also have a body wall thickness of about 0.90 inch, and one weighing 75 pounds would have a body wall thickness of about 1.00 inch.

(3) *Yield Grade 3.* (i) A carcass in Yield Grade 3, which is near the borderline with Yield Grade 4, usually has a moderately thick covering of fat over the back. The top of the shoulders are completely covered, and the legs are nearly completely covered, although the muscles on the outside of the lower legs are visible. There usually are slightly large deposits of fat in the flanks and cod or udder.

(ii) A carcass in Yield Grade 3 with the maximum amount of fat allowed would have an adjusted fat thickness of 0.35 inch. Such a carcass with normal fat distribution and weighing 55 pounds would also have a body wall thickness of about 1.05 inches, and one weighing 75 pounds would have a body wall thickness of about 1.15 inches.

(4) *Yield Grade 4.* (i) A carcass in Yield Grade 4, which is near the borderline with Yield Grade 5, usually is

completely covered with fat. There usually is a very thick covering of fat over the back and a slightly thick covering over the shoulders and legs. There usually are large deposits of fat in the flanks and cod or udder.

(ii) A carcass in Yield Grade 4 with the maximum amount of fat allowed would have an adjusted fat thickness of 0.45 inch. Such a carcass with normal fat distribution and weighing 55 pounds would also have a body wall thickness of about 1.20 inches, and one weighing 75 pounds would have a body wall thickness of about 1.30 inches.

(5) *Yield Grade 5.* A carcass in Yield Grade 5 has an adjusted fat thickness of more than 0.45 inch. The external fat covering on most parts of the carcass is usually greater than that described for Yield Grade 4.

Done at Washington, DC, on November 15, 1991.

Daniel Haley,

Administrator.

[FR Doc. 91-27923 Filed 11-19-91; 8:45 am]

BILLING CODE 3410-02-M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 91-NM-171-AD]

Airworthiness Directives; Boeing Model 737 and 757 Series Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This notice proposes to adopt a new airworthiness directive (AD), applicable to certain Boeing Model 737 and 757 series airplanes, which would require the reinforcement of the overhead stowage bins, and the replacement of certain drag link and tie rod assemblies. This proposal is promoted by testing which demonstrated that the bins are not able to withstand ultimate load at the current maximum allowable weight levels. This condition, if not corrected, could result in the bins separating from their attachments and injuring passengers in the event of an accident or emergency landing.

DATES: Comments must be received no later than January 10, 1992.

ADDRESSES: Send comments on the proposal in duplicate to the Federal Aviation Administration, Northwest Mountain Region, Transport Airplane Directorate, ANM-103, Attention: Airworthiness Rules Docket No. 91-NM-171-AD, 1601 Lind Avenue SW., Renton, Washington 98055-4056. The applicable service information may be obtained from Boeing Commercial Airplane Group, P.O. Box 3707, Seattle, Washington 98124. This information may be examined at the FAA, Northwest Mountain Region, Transport Airplane Directorate, 1601 Lind Avenue SW., Renton, Washington.

FOR FURTHER INFORMATION CONTACT: Mr. Pliny C. Brestel, Seattle Aircraft Certification Office, Airframe Branch, ANM-120S; telephone (206) 227-2783. Mailing address: FAA, Northwest Mountain Region, Transport Airplane Directorate, 1601 Lind Avenue SW., Renton, Washington 98055-4056.

SUPPLEMENTARY INFORMATION: Interested persons are invited to participate in the making of the proposed rule by submitting such written data, views, or arguments as they may desire. Communications should identify the Rules Docket number and be submitted in duplicate to the address specified above. All communications received on or before the closing date for comments specified above will be considered by the Administrator before taking action on the proposed rule. The proposals contained in this Notice may be changed in light of the comments received.

Comments are specifically invited on the overall regulatory, economic, environmental, and energy aspects of the proposed rule. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons. A report summarizing each FAA/public contact, concerned with the substance of this proposal, will be filed in the Rules Docket.

Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this Notice must submit a self-addressed, stamped post card on which the following statement is made: "Comments to Docket Number 91-NM-171-AD." The post card will be date/time stamped and returned to the commenter.

DISCUSSION: Recent static and dynamic testing of the overhead stowage bins installed on certain Model 737 and 757 series airplanes was conducted at the Transportation Research Center in Ohio, and demonstrated that the bins are unable to withstand the 9g ultimate crashworthiness load when loaded to the current maximum allowable weights. The ultimate load is defined as the maximum load the airplane is expected to experience during its operational design life. The bins would only be expected to experience ultimate load in the event of an accident or an emergency landing. As a result of this testing, Boeing reviewed the bin design and concluded that the attachment of the drag link fitting is understrength. Core shear failure occurred where the drag link fitting is attached to the bin. Also, in some instances the drag link assembly and the tie rod assemblies are understrength. Failure of the tie rod assemblies, the drag link assembly, or the drag link fitting attachment could result in bins separating from the support structure during an accident or emergency landing.

The FAA has reviewed and approved Boeing Alert Service Bulletins 737-25A1283 and 757-25A0121, both dated September 19, 1991, which describe procedures for reinforcing the bins using a reinforced bin design for the drag link fitting attachment.

Boeing has advised the FAA that it is currently preparing Alert Service Bulletins 737—25A1291 and 757—25A0130, which will describe procedures for modification of the drag link and the tie rod assemblies using redesigned components. These service documents, however, are not expected to be released until December 1991.

Since the addressed unsafe condition is likely to exist on other airplanes of this same type design, an AD is proposed which would require the installation of a reinforcement for the overhead bins and the replacement of certain drag link and tie rod assemblies. The bin modification would consist of a doubler bonded to the interior of the bin, and attached with four through-bolts common to the drag link fitting. Installation of the reinforcement may require removal of the bins.

There are approximately 1,046 Model 737 series airplanes of the affected design in the worldwide fleet. It is estimated that 519 airplanes of U.S. registry would be affected by this AD. It would take approximately 112 manhours per airplane to modify the bins and replace the drag link and tie rod assemblies, at an average labor cost of $55 per manhour. Based on these figures, the cost impact of the AD on U.S. operators of Boeing Model 737 series airplanes is estimated to be $3,197,040.

There are approximately 361 Model 757 series airplanes of the affected design in the worldwide fleet. It is

estimated that 222 airplanes of U.S. registry would be affected by this AD. It would take approximately 144 manhours per airplane to modify the bins and replace the drag link and tie rod assemblies, at an average labor cost of $55 per manhour. Based on these figures, the cost impact of the AD on U.S. operators of Model 757 series airplanes is estimated to be $1,758,240 to modify the bins.

Based on the figures discussed above, the total cost impact of the AD on U.S. operators is estimated to be $4,955,280.

The regulations proposed herein would not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, in accordance with Executive Order 12612, it is determined that this proposal would not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

For the reasons discussed above, I certify that this proposed regulation (1) is not a "major rule" under Executive Order 12291; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979); and (3) if promulgated, will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act. A copy of the draft evaluation prepared for this action is contained in the Rules Docket. A copy of it may be obtained from the Rules Docket.

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

The Proposed Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration proposes to amend 14 CFR part 39 of the Federal Aviation Regulations as follows:

PART 39—[AMENDED]

1. The authority citation for part 39 continues to read as follows:

Authority: 49 U.S.C. 1354(a), 1421 and 1423; 49 U.S.C. 106(g); and 14 CFR 11.89.

§ 39.13 [Amended]

2. Section 39.13 is amended by adding the following new airworthiness directive:

Boeing: Docket No. 91–NM–171–AD.

Applicability: Model 737 series airplanes, listed in Boeing Alert Service Bulletin 737–25A1283, dated September 19, 1991; and Model 757 series airplanes listed in Boeing Alert Service Bulletin 757–25A0121, dated September 19, 1991; certificated in any category.

Compliance: Required as indicated, unless previously accomplished.

To ensure the structural integrity of the overhead stowage bins, accomplish the following:

(a) For Boeing Model 737 airplanes, listed in Boeing Alert Service Bulletin 737–25A1283, dated September 19, 1991; and Model 757 airplanes listed in Boeing Alert Service Bulletin 757–25A0121, dated September 19, 1991; accomplish the following:

(1) For overhead stowage bins defined as Phase I in Section III, paragraph 4.a, of the applicable alert service bulletin, or any other stowage bin that contains a liferaft or video equipment: Within 8 months after the effective date of this AD, modify those bins in accordance with Section III of the applicable alert service bulletin.

(2) For overhead stowage bins defined as Phase II, III, or IV in Section III, paragraph 4.b., 4.c., and 4.d., of the applicable alert service bulletin: Within 31 months after the effective date of this AD, modify those bins in accordance with Section III of the applicable alert service bulletin.

(3) For overhead stowage bins greater than 67 inches long: Within 31 months after the effective date of this AD, replace the applicable drag link and tie rod assemblies in a manner approved by the Manager, Seattle Aircraft Certification Office (ACO), FAA, Transport Airplane Directorate.

(b) An alternative method of compliance or adjustment of the compliance time, which provides an acceptable level of safety, may be used when approved by the Manager, Seattle Aircraft Certification Office (ACO), FAA, Transport Airplane Directorate.

Note: The request should be forwarded through an FAA Principal Maintenance Inspector, who may concur or comment and then send it to the Manager, Seattle ACO.

(c) Special flight permits may be issued in accordance with FAR 21.197 and 21.199 to operate airplanes to a base in order to comply with the requirements of this AD.

All persons affected by this directive who have not already received the appropriate service documents from the manufacturer may obtain copies upon request to Boeing Commercial Airplane Group, P.O. Box 3707, Seattle, Washington 98124. These documents may be examined at the FAA, Northwest Mountain Region, Transport Airplane Directorate, 1601 Lind Avenue SW., Renton, Washington.

Issued in Renton, Washington, on November 7, 1991.

Darrell M. Pederson,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 91–27877 Filed 11–19–91; 8:45 am]

BILLING CODE 4910–13–M

COMMODITY FUTURES TRADING COMMISSION

17 CFR Part 30

Option on the Italian Government Bond Futures Contract Traded on the London International Financial Futures Exchange

AGENCY: Commodity Futures Trading Commission.

ACTION: Notification of proposed order.

SUMMARY: The Commodity Futures Trading Commission ("Commission") is publishing notice of a proposed Order authorizing option contracts on the Italian Government Bond ("BTP") futures Contract traded on the London International Financial Futures Exchange ("LIFFE") to be offered or sold to persons located in the United States. If approved, this Order will be issued pursuant to: (1) Commission rule 30.3(a), 17 CFR 30.3(a) (1991), which makes it unlawful for any person to engage in the offer or sale of a foreign option product until the Commission, by order, authorizes such foreign option to be offered or sold in the United States; and (2) the Commission's Order issued on September 5, 1989, 54 FR 37636 (September 12, 1989), authorizing certain option products traded on LIFFE to be offered or sold in the United States.

FOR FURTHER INFORMATION CONTACT: Barney L. Charlon, Esq., Division of Trading and Markets, Commodity Futures Trading Commission, 2033 K Street NW., Washington, DC 20581. Telephone: (202) 254–8955.

SUPPLEMENTARY INFORMATION: The Commission has issued notification of the following proposed Order:

United States of America Before the Commodity Futures Trading Commission

Notification of Proposed Order Under Commission rule 30.3(a) Permitting Option Contracts on the Italian Government Bond Futures Contract Traded on the London International Financial Futures Exchange To Be Offered or Sold in the United States

By Order issued on September 5, 1989 ("Initial Order"), the Commission authorized, pursuant to Commission rule 30.3(a), certain option products traded on the London International Financial Futures Exchange ("LIFFE") to be offered or sold in the United States. 54 FR 37636 (September 12, 1989). Among other conditions, the Initial Order specified that:

Except as otherwise permitted under the Commodity Exchange Act and regulations thereunder, * * * no offer or sale of any LIFFE option product in the United States shall be made until thirty days after

publication in the **Federal Register** of notice specifying the particular option(s) to be offered or sold pursuant to this Order * * *.

By letter dated October 22, 1991, LIFFE represented that it had commenced trading an option contract based on the Italian Government Bond ("BTP") futures contract on October 24, 1991. LIFFE has requested that the Commission supplement its Initial Order authorizing Options on the Long Gilt futures contract, Options on the U.S. Treasury Bond futures contract, Options on the German Government Bond futures contract, Options on the 3-Month Sterling Interest Rate futures contract, Options on the 3-Month Eurodollar Interest Rate futures contract, Options on the 3-Month Euro-Deutschemark Interest Rate futures contract, and Options on Sterling and Dollar-Mark currencies by also authorizing LIFFE's Option Contract on the BTP futures contract to be offered or sold to persons in the United States.

Upon due consideration, and for the reasons previously discussed in the Initial Order, the Commission believes that such authorization should be granted, provided the proposal of the Securities and Exchange Commission ("SEC") dated November 13, 1991, to designate the Italian Government Bond as an exempted security becomes effective.[1] Accordingly, should the SEC issue a final rule designating the Italian Government Bond as an exempted security, the Commission will publish a final order pursuant to Commission rule 30.3(a) and the Commission's Initial Order issued on September 5, 1989, and subject to the terms and conditions specified therein, authorizing LIFFE's Option Contract on the BTP futures contract to be offered or sold to persons located in the United States.

Option on Italian Government Bond ("BTP") Future

Unit of Trading—1 BTP futures contract.
Delivery/Expiry Months—March, June, September, December.
Exercise Day/Delivery Day/Expiry Day—Exercise by 17.00 on any business day extended to 18.30 on Last Trading Day. Delivery on the first business day after the exercise day. Expiry at 18.30 on the Last Trading Day.
Last Trading Day—Seven business days prior to first day of the delivery month.
Quotation—Multiples of ITL 0.01.
Minimum Price Movement (Tick size & Value)—ITL 0.01 (ITL 20,000).
Trading Hours—08.02–16.05 London time.

Contract Standard

Assignment of 1 BTP futures contract for the delivery month at the exercise price.

Exercise Price Intervals

ITL 0.50 e.g. 95.00, 95.50 etc.

Introduction of New Exercise Prices

Nine exercise prices will be listed for new series. Additional exercise prices will be introduced on the business day after the BTP futures contract settlement price is within ITL 0.25 of the fourth highest or lowest existing exercise price.

Option Price

The contract price is payable by the buyer to the seller on exercise or expiry of the option, not at the time of purchase. Positions are marked to market daily.

Initial Listing

As of 24th October 1991, options will be listed on the December 1991 and March 1992 delivery months.

Issued in Washington, DC on November 14, 1991.

Jean A. Webb,

Secretary of the Commission.

[FR Doc. 91–27860 Filed 11–19–91; 8:45 am]
BILLING CODE 6351–01–M

[1] Futures contracts on foreign government debt securities may not be offered or sold in the United States until the SEC has designated such debt securities as exempted under section 3(a)(12) of the Securities Exchange Act of 1934 and Rule 3a12–8 promulgated thereunder. In addition, option contracts based on such futures contracts must be the subject of a Commission order pursuant to rule 30.3(a)

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[IL12–14–5322; FRL–4030–2]

Reconsideration of Certain Federal RACT Rules for Illinois

AGENCY: United States Environmental Protection Agency.

ACTION: Proposed stay.

SUMMARY: In the Rules Section of today's **Federal Register**, USEPA is announcing a 3-month stay based on USEPA's decision to reconsider certain Federal rules requiring Reasonably Available Control Technology (RACT) to control volatile organic compound (VOC) emissions in the Illinois portion of the Chicago ozone nonattainment area (55 FR 26814, June 29, 1990). That action stays the effectiveness of the following rules, including the applicable compliance dates, for three months: (1) The emission limitations and standards for paper coating operations only as they apply to Riverside Laboratories, Inc. (55 FR at 26868–874, codified at 42 CFR 52.741(e)), as well as the August 30, 1991, compliance date (56 FR 33710, 33712 (July 23, 1991), to be codified at 40 CFR 52.741(z)(2)); and (2) the "other emission sources" rule and the recordkeeping and reporting requirements for non-CTG sources only as they apply to Reynolds Metals Company (55 FR 26884–886, codified at 42 CFR 52.741 (x) and (y)), as well as the August 30, 1991, compliance date (56 FR at 33712, to be codified at 40 CFR 52.741(z)(2)). USEPA is issuing that stay pursuant to Clean Air Act (CAA) section 307(d)(7)(B), 42 U.S.C. 7607(d)(7)(B), which provides the Administrator with authority to stay the effectiveness of a rule for up to 3 months during reconsideration.

This notice proposes, pursuant to CAA section 110(c), 301(a)(1) and 307(d)(1)(B), 42 U.S.C. 7410(c), 7601(a)(1) and 7607(d)(1)(B), to temporarily stay the effectiveness of these rules and applicable compliance dates beyond the three months expressly provided in section 307(d)(7)(B), but only if and as long as necessary to complete reconsideration (including any appropriate regulatory action) of the rules in question. Pursuant to the rulemaking procedures set forth in CAA section 307(d), 42 U.S.C. 7607(d), USEPA hereby requests public comment on this proposed temporary extention of the three-month stay.

DATES: Comments on this proposal must be received by December 20, 1991 at the address below. A public hearing, if requested, will be held in Chicago, Illinois. Requests for a hearing should be submitted to J. Elmer Bortzer by December 20, 1991, at the address below. Interested persons may call Mr. Bortzer at (312) 886–1430 to see if a hearing will be held and the date and location of any hearing. Any hearing will be strictly limited to the subject matter of this proposal, the scope of which is discussed below.

ADDRESSES: Written comments on this proposed action should be addressed to J. Elmer Bortzer, Chief, Regulation Development Section (5AR–26), U.S. Environmental Protection Agency, Region V, Chicago, Illinois 60604. Comments should be strictly limited to the subject matter of this proposal, the scope of which is discussed below.

DOCKET: Pursuant to section 307(d)(1) of the CAA, 42 U.S.C. 7607(d)(1), this action is subject to the procedural

requirements of section 307(d). Therefore, USEPA has established a public docket for this action, 5AR91–3, which is available for public inspection and copying between 8 a.m. and 4 p.m., Monday through Friday, at the following addresses. We recommend that you contact Randolph O. Cano before visiting the Chicago location and Gloris Butler before visiting the Washington, DC location. A reasonable fee may be charged for copying.

U.S. Environmental Protection Agency, Region V, Regulation Development Branch, Twenty-Sixth Floor, Northeast, 230 South Dearborn Street, Chicago, Illinois 60604 (312) 886–6036.

U.S. Environmental Protection Agency, Docket No. 5AR91–3, Air Docket (LE–131), room M1500, Waterside Mall, 401 M Street SW., Washington, DC 20460 (202) 245–3639.

FOR FURTHER INFORMATION CONTACT: Randolph O. Cano, Regulation Development Branch (5AR–26), U.S. Environmental Protection Agency, Region V. Chicago, Illinois 60604, (312) 886–6036.

SUPPLEMENTARY INFORMATION: In the Rules Section of today's **Federal Register**, USEPA announces that, pursuant to CAA section 307(d)(7)(B), 42 U.S.C. 7607(d)(7)(B), it is convening a proceeding for reconsideration of certain Federal rules requiring RACT to control VOC emissions in the Illinois portion of the Chicago ozone nonattainment area (55 FR 26814, June 29, 1990). Readers should refer to that notice for a complete discussion of the background and rules affected.[1] In that notice, USEPA also announces a 3-month stay of those rules during reconsideration. However, USEPA may not be able to complete reconsideration (including any appropriate regulatory action) of the rules within the 3-month period expressly provided by CAA section 307(d)(7)(B). If USEPA does not complete reconsideration of this timeframe then it will temporarily extend the stay of the emission limitations and applicable compliance dates until USEPA completes final rulemaking action upon reconsideration. By this action, USEPA proposes a temporary extension of the stay beyond the 3 months provided in section 307(d)(7)(B), only if and as long as necessary to complete reconsideration of the rules in question. If USEPA takes final action to impose this stay, the stay would extend until the effective date of USEPA's final action following reconsidering of these rules.

By this notice USEPA hereby proposes, pursuant to CAA sections 110(c), 301(a) and 307(d)(1)(B), a temporary administrative stay of the effectiveness of the following rules, including the applicable compliance dates, which were promulgated as final Federal rules requiring RACT to control VOC emissions in the Illinois portion of the Chicago nonattainment area (55 FR 26814): (1) The paper coating rule only as they apply to Riverside Laboratories, Inc. (55 FR at 26868–874, codified at 40 CFR 52.741(e)) as well as the August 30, 1991 compliance date (56 FR 33712, to be codified at 40 CFR 52.741(z)(2)); and (2) the other emission sources rule and the recordkeeping and reporting requirements only as it applies to Reynolds Metals Company (55 FR 26884–886, codified at 40 CFR 52.741 (x) and (y)), as well as the August 30, 1991 compliance date (56 FR 33712, to be codified at 40 CFR 52.741(z)(2)). Pursuant to the rulemaking procedures set forth in section 307(d) of the CAA, USEPA hereby requests comment on such a proposed extension of the stay.

USEPA is proposing this temporary administrative stay of the rules and associated compliance dates in order to complete reconsideration of these rules, as discussed above. USEPA intends to complete its reconsideration of the rules and, following notice and comment procedures of section 307(d) of the CAA, take appropriate action. If the reconsideration results in emission limitations and standards which are different than the otherwise applicable FIP rules, USEPA will propose an appropriate compliance period following reconsideration. As a general matter, USEPA will provide an adequate period for compliance upon completion of its final action on reconsideration. In essence, USEPA will seek to ensure that the affected parties are not unduly prejudiced by the Agency's reconsideration. Note that, like the rules themselves, any USEPA proposal regarding the appropriate compliance period would be subject to the notice and comment procedures of CAA section 307(d).

USEPA recognizes the interests of the State of Wisconsin in this matter. The regulatory requirements that will be stayed, pursuant to today's action, were undertaken in the context of a settlement agreement between USEPA and the States of Wisconsin and Illinois. In recognition of those obligations, USEPA will reconsider the rules in question as expeditiously as practicable.

Under Executive Order 12291, this action is not "major." It has been submitted to the Office of Management and Budget for review.

List of Subjects in 40 CFR Part 52

Air pollution control, Ozone.

Authority: 42 U.S.C. 7401–7671q.

Dated: November 6, 1991.

William K. Reilly,

Administrator.

[FR Doc. 91–27389 Filed 11–19–91; 8:45 am]

BILLING CODE 6560–50–M

[1] In that discussion and as incorporated by reference here, USEPA makes expressly clear that, by its actions today, including this proposal, USEPA in no manner concedes that it violated any provision of the CAA or Administrative Procedure Act.

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 22

[CC Docket No. 90–6; FCC 91–311]

Filing and Processing of Applications for Unserved Areas in the Cellular Service and To Modify Other Cellular Rules

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: Proposed rules on a new propagation model for cellular service areas, treatment of water areas, filing of modification applications during the five year fill-in period and rules on payments for the withdrawal of petitions to deny and competing applications. The proposed rules are designed to create a more realistic means of measuring reliable service areas for cellular radio, to resolve existing and potential conflicts concerning service to water areas and to clarify existing policies and rules concerning the fill-in period. Additionally, in response to comments received in the initial phase of this proceeding, we have proposed rules designed to discourage the filing of other than *bona fide* applications or petitions for the sole purpose of monetary gain from a settlement process.

DATES: Comments must be filed by December 16, 1991. Reply comments are due by January 13, 1992.

ADDRESSES: Federal Communications Commission, Washington, DC 20554.

FOR FURTHER INFORMATION CONTACT: Carmen Borkowski or Andrew Nachby, (202) 632–6450 or Jay Jackson, (202) 653–5560, Mobile Services Division, Common Carrier Bureau.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's Notice of Proposed Rulemaking, in CC Docket No. 90–6, adopted September 30, 1991 and released October 18, 1991.

The full text of Commission decisions are available for inspection and copying during normal business hours in the FCC Dockets Branch (room 230), 1919 M Street NW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractor, Downtown Copy Center, (202) 452–1422, 1114 21st Street, NW., Washington, DC 20036.

The following collection of information contained in this proposed rule has been submitted to the Office of Management and Budget for review under Section 3504(h) of the Paperwork Reduction Act (44 U.S.C. 3504(h)). Copies of this submission may be purchased from the Commission's copy contractor, Downtown Copy Center, (202) 452–1422, 1114 21st Street, NW., Washington, DC 20036. Persons wishing to comment on this collection of information should direct their comments to Jonas Neihardt, (202) 395–4814, Office of Management and Budget, room 3235 NEOB, Washington, DC 20503. A copy of any documents filed with the Office of Management and Budget should also be sent to the following address at the Commission: Federal Communications Commission, Information Resources Branch, room 416, Paperwork Reduction Project, Washington, DC 20554. For further Information contact Judy Boley, (202) 632–7513.

Title: Amendment of Part 22 of the Commission's Rules to Provide for Filing and Processing of Applications for Unserved Areas in the Cellular Service and to Modify Other Cellular Rules, CC Docket No. 90–6 (FNPRM).

OMB Number: None.

Action: Proposed new collections.

Respondents: Businesses or other for profit, including small businesses.

Frequency of Response: On occasion.

Proposed sections	Estimate average hours per response	Estimate annual responses
Section 22.903	2	10
Section 22.927	2	10
Section 22.928	2	10
Section 22.929	2	10

Estimated Annual Burden: 80 hours.

Needs and Uses: The further Notice of Proposed Rulemaking (FNPRM) solicits public comment on proposed rules on a new propagation model for cellular service areas; treatment of water areas; filing of modification applications during the five-year fill-in period; and rules on payments for the withdrawal of applications or petitions to deny. The affected public are common carriers seeking authorizations in the cellular service. The information is used by Commission staff to process applications and to deter speculative filings.

Summary of Notice of Proposed Rulemaking

The Further Notice proposes the adoption of a formula for defining a Cellular Geographic Service Area (CGSA). The formula proposed would approximate 32dBu contours, which the staff believes, more accurately predict a reliable service area to the public. New CGSA boundaries will be defined and existing CGSAs will be adjusted in a way that they more closely approximate the extent of reliable service actually provided by the cellular systems. Comments are invited on when modifications to existing systems should be made.

Additionally, the Further Notice proposes that water areas be considered part of the licensee's CGSA if reliable service is provided to the public subject to existing boundary lines, or, where such do not exist, an artificial line running perpendicular to the coastline. Gulf of Mexico licensees will be required to conform their CGSAs to reflect the area reliably served. A formula is recommended, which is based on 32dBu contours as estimated in propagation models over salt water.

The Further Notice also proposes to make CGSAs coextensive with the MSA or RSA during the five-year fill-in period so that licensees may modify their systems by using a Form 489 (permissive change) instead of Form 401. This expedites application processing.

Finally, the Further Notice proposes to allow payments, limited to legitimate and prudent out-of-pocket expenses of the parties, for the withdrawal of petitions to deny, for the withholding of petitions to deny and the withdrawal of competing applications.

Ordering Clauses

Accordingly, *it is ordered*, pursuant to section 1, 4(i), 4(j) and 303(r) of the Communications Act of 1934, 47 U.S.C. 151, 154(i), 154(j) and 303(r) that there is *issued a further notice of proposed rule making.*

Pursuant to §§ 1.415 and 1.419 of the Commission's rules, 47 CFR 1.1415 and 1.419 that all interested persons may file comments on the matters discussed in this Notice by December 16, 1991 and reply comments by January 13, 1992.

It is ordered, that the Secretary shall cause a copy of this Notice to be sent to the Chief Counsel for Advocacy of the Small Business Administration in accordance with Section 603(a) of the Regulatory Flexibility Act (5 U.S.C. Section 603(a).

List of Subjects in 47 CFR Part 22

Cellular radio, Communications common carriers, Communications equipment, Radio, Reporting and recordkeeping requirements, Rural areas.

Federal Communications Commission.

Donna R. Searcy,

Secretary.

[FR Doc. 91–27076 Filed 11–19–91; 8:45 am]

BILLING CODE 6712–01–M

47 CFR Part 73

[MM Docket No. 91–337, RM–7138]

Radio Broadcasting Services; Muskegon Heights, MI

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: This document requests comments on a petition filed by Pathfinder Communications Corporation requesting the substitution of Channel 269B1 for Channel 269A, Muskegon Heights, Michigan, and modification of the license for Station WQFN–FM to specify operation on the higher class channel. Canadian concurrence has been received for the allotment of Channel 269B1 at Muskegon Heights at coordinates 43–16–39 and 86–20–00. We shall propose to modify the license for Station WQFN–FM, Channel 269A, to specify operation on Channel 269B1 in accordance with § 1.420(g) of the Commission's Rules, and will not accept competing expressions of interest for use of the channel or require petitioner to demonstrate the availability of an additional equivalent class channel for use by such parties. We note that the FM Table of Allotments erroneously lists the community of license for Channel 269A as Muskegon instead of Muskegon Heights. The Table will be corrected when this proceeding is terminated.

DATES: Comments must be filed on or before January 6, 1992, and reply comments on or before January 21, 1992.

ADDRESSES: Federal Communications Commission, Washington, DC 20554. In addition to filing comments with the FCC, interested parties should serve the

petitioner's counsel: Peter Tannenwald, Arent, Fox, Kintner, Plotkin & Kahn, 1050 Connecticut Avenue NW., Washington, DC 20036–5339.

FOR FURTHER INFORMATION CONTACT: Kathleen Scheuerle, Mass Media Bureau, (202) 634–6530.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's Notice of Proposed Rule Making, MM Docket No. 91–337, adopted November 1, 1991, and released November 14, 1991. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Dockets Branch (room 230), 1919 M Street, NW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractors, Downtown Copy Center, 1714 21st Street, NW., Washington, DC 20036, (202) 452–1422.

Provisions of the Regulatory Flexibility Act of 1980 do not apply to this proceeding.

Members of the public should note that from the time a Notice of Proposed Rule Making is issued until the matter is no longer subject to Commission consideration or court review, all *ex parte* contracts are prohibited in Commission proceedings, such as this one, which involve channel allotments. See 47 CFR 1.1204(b) for rules governing permissible *ex parte* contact.

For information regarding proper filing procedures for comments, see 47 CFR 1.415 and 1.420.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

Federal Communications Commission.

Michael C. Ruger,

Assistant Chief, Allocations Branch, Policy and Rules Division, Mass Media Bureau.

[FR Doc. 91–27893 Filed 11–19–91; 8:45 am]

BILLING CODE 6712–01–M

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47 CFR Part 73

[MM Docket No. 91–338, RM–7852]

Radio Broadcasting Services; Belen and Grants, NM

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: The Commission requests comments on a petition by Don R. Davis seeking the deletion of Channel 288C from Grants, New Mexico, and its reallotment, as a Class A, to Belen, New Mexico, as the community's second local FM transmission service. Channel 288A can be allotted to Belen in compliance with the Commission's minimum distance separation requirements without the imposition of a site restriction, at coordinates North Latitude 34–39–30 and West Longitude 106–46–24. Concurrence by the Mexican government is required because Belen is located within 320 kilometers (199 miles) of the U.S.-Mexican border.

DATES: Comments must be filed on or before January 6, 1992, and reply comments on or before January 21, 1992.

ADDRESSES: Federal Communications Commission, Washington, DC 20554. In addition to filing comments with the FCC, interested parties should serve the petitioner, or its counsel or consultant, as follows: Don R. Davis, 3611 Altamonte Avenue NE., Albuquerque, New Mexico 87110 (Petitioner).

FOR FURTHER INFORMATION CONTACT: Leslie K. Shapiro, Mass Media Bureau, (202) 634–6530.

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's Notice of Proposed Rule Making, MM Docket No. 91–338, adopted November 1, 1991, and released November 14, 1991. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Dockets Branch (room 230), 1919 M Street, NW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractor, Downtown Copy Center, (202) 452–1422, 1714 21st Street, NW., Washington, DC 20036.

Provisions of the Regulatory Flexibility act of 1980 do not apply to this proceeding.

Members of the public should note that from the time a Notice of Proposed Rule Making is issued until the matter is no longer subject to Commission consideration or court review, all *ex parte* contacts are prohibited in Commission proceedings, such as this one, which involve channel allotments. See 47 CFR 1.1204(b) for rules governing permissible *ex parte* contacts.

For information regarding proper filing procedures for comments, see 47 CFR 1.415 and 1.420.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

Federal Communications Commission.

Michael C. Ruger,

Assistant Chief, Allocations Branch, Policy and Rules Division, Mass Media Bureau.

[FR Doc. 91–27892 Filed 11–19–91; 8:45 am]

BILLING CODE 6712–01–M

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Parts 611 and 675

[Docket No. 911172–1272]

Foreign Fishing; Groundfish of the Bering Sea and Aleutian Islands

AGENCY: National Marine Fisheries Service (NMFS), NOAA, Commerce.

ACTION: Notice of proposed 1992 initial specifications of groundfish and prohibited species catch allowances; request for comments.

SUMMARY: NMFS proposes 1992 initial harvest specifications for each category of groundfish in the Bering Sea and Aleutian Islands (BSAI) area and associated management measures. This action is necessary to inform the public about proposed 1992 harvest specifications and management measures and to solicit public comments. The intended effect of this notice is to provide NMFS with the best available information on which to base final 1992 initial harvest specifications and associated management measures and to provide opportunity for public participation in this decision-making process.

DATES: Comments will be received through December 16, 1991.

ADDRESSES: Comments should be sent to Dale R. Evans, Chief, Fisheries Management Division, Alaska Region, National Marine Fisheries Service, P.O. Box 21668, Juneau, Alaska 99802–1668, or be delivered to the Federal Building Annex, suite 6, 9109 Mendenhall Mall Road, Juneau, Alaska. The preliminary Stock Assessment and Fishery Evaluation (SAFE) Report may be requested from the North Pacific Fishery Management Council, P.O. Box 103136, Anchorage, AK 99510.

FOR FURTHER INFORMATION CONTACT: Susan J. Salveson, Fishery Management Biologist, NMFS, 907–586–7229.

SUPPLEMENTARY INFORMATION: Groundfish fisheries in the BSAI area are governed by Federal regulations at 50 CFR parts 611 and 675, which implement the Fishery Management Plan for the Groundfish Fishery of the Bering Sea and Aleutian Islands Area (FMP). The FMP was prepared by the North Pacific Fishery Management Council (Council) and approved by the Secretary of Commerce (Secretary) under the Magnuson Fishery Conservation and Management Act (Magnuson Act).

The FMP and implementing regulations require NMFS, after consultation with the Council, to specify for each calendar year the total allowable catch (TAC) for each target species and the "other species" category, the sum of which must be within the optimum yield range of 1.4 million to 2.0 million metric tons (mt) (§ 675.20(a)(2)). Regulations under § 675.20(a)(7)(i) further require NMFS annually to publish and solicit public comment on amounts of proposed annual TACs, apportionments of each TAC, prohibited species catch allowances, and seasonal allowances of pollock. Tables 1–4 and this notice satisfy this requirement A draft environmental assessment of this action will be available to the public at the December 1991 Council meeting. Under § 675.20(a)(7)(ii), NMFS will publish the final annual TACs for 1992 and initial apportionments after considering all timely comments and after consultation with the Council at its December meeting.

The specified TACs for each species are based on the best available biological and socioeconomic information. The Council, its Advisory Panel (AP), and its Scientific and Statistical Committee (SSC) annually review biological information about the condition of groundfish stocks in the BSAI area. This information is compiled by the council's BSAI groundfish Plan Team and is presented in the SAFE report. The Plan Team annually produces such a report as the first step in the process of specifying TACs. The SAFE report contains a review of the latest scientific analyses and estimates of each species' biomass, maximum sustainable yield (MSY), acceptable biological catch (ABC), and other biological parameters, and summaries of the economic condition of groundfish fisheries off Alaska. The most recent SAFE report is dated November 1990. A preliminary SAFE report dated September 1991 provides an update on status of stocks; however, stock assessments based on biological survey work done during the summer of 1991 will be used to update preliminary assessments in the final edition of the 1991 SAFE report, which will be published by the Council in November 1991. Estimated ABCs for the 1992 fishing year will be based on these latest stock assessments. For purposes of this notice, many of the ABCs adopted by the Council for the 1991 fishing year are used as the best available scientific information. Other ABCs are adjusted to accommodate projected biomass trends, information on assumed distribution of stock biomass, revised aggregations of species for purposes of TAC management, or revised technical methods used to calculate stock biomass.

Procedure for Estimating ABC

Calculation of ABC varies among species depending on the quality of available data and prior knowledge of a species' stock status. The Plan Team has adopted three steps for estimating ABCs. First, the exploitable biomass of a stock is estimated. Second, the ABC for a stock is calculated by multiplying an exploitation rate times the estimated exploitable biomass. Various exploitation rates or fishing mortality (F) rates may be used in this calculation. For example, the exploitation rate that would produce MSY (F_{MSY}) may be used when the stock is known to be in good condition, high in abundance and not in danger of drastic declines. When particular caution is indicated, the more conservative $F_{0.1}$ harvest strategy is used to determine an exploitation rate. This strategy determines a level of F at which the marginal increase in yield-per-recruit due to an increase in F is 10 percent of the marginal yield per recruit in a newly exploited fishery. Recruitment refers to the growth of juvenile fish into the adult or exploitable population. Generally, the $F_{0.1}$ harvest strategy produces a more conservative exploitation rate than F_{MSY}. Another alternative is to use historical exploitation rates when historical fishery data indicate that a stock is not adversely affected by such rates. Finally, an empirical estimation of ABC based on historical catch levels may be used when information is insufficient to estimate the biomass of a stock. Details of this and other calculation procedures are discussed in the preliminary 1992 SAFE report dated September 1991. This report is available on request from the Council (see **ADDRESSES**).

A summary of Plan Team recommendations for preliminary ABCs for each species for 1992 and other biological data is provided in the preliminary 1992 SAFE report. At its September 23–29, 1991, meeting, the Council's SSC reviewed the Plan Team's preliminary recommendations for 1992 ABCs as set forth in the preliminary September 1991 SAFE report. The SSC recommended several revisions to the preliminary ABCs set forth in this report, which the Council subsequently adopted for purposes of this notice (Table 1).

TABLE 1.—PROPOSED 1992 ACCEPTABLE BIOLOGICAL CATCH (ABC), TOTAL ALLOWABLE CATCH (TAC), INITIAL TAC (ITAC), AND INTERIM ITAC APPORTIONMENTS OF GROUNDFISH IN THE BERING SEA AND ALEUTIAN ISLANDS AREA [1, 2]

Species	ABC	TAC	Initial TAC [3]	DAP=ITAC [4]	Interim DAP=¼ ITAC [5]
Pollock:					
BS	1,421,000	1,100,000	935,000	935,000	233,750
AL	75,900	75,900	64,515	64,515	16,129
BD [6]	0–102,000	20,000	17,000	17,000	4,250
Pacific cod	225,000	180,000	153,000	153,000	38,250
Sablefish:					
BS	3,100	3,100	2,634	2,634	659
AL	3,200	3,200	2,720	2,720	680
Atka mackerel	24,000	24,000	20,400	20,400	5,100
Yellowfin sole	372,000	130,000	110,500	110,500	27,625
Rock sole	246,500	60,000	51,000	51,000	12,750
Greenland turbot	7,000	7,000	5,950	5,950	1,488
Arrowtooth flounder	116,400	20,000	17,000	17,000	4,250
Other flatfish	219,700	40,000	34,000	34,000	8,500
Pacific Ocean perch:					
BS	4,500–6,400	4,570	3,885	3,885	971
AL	10,600–16,900	10,775	9,159	9,159	2,290
Other red rockfish: [7]					
BS	1,800	1,670	1,420	1,420	355

TABLE 1.—PROPOSED 1992 ACCEPTABLE BIOLOGICAL CATCH (ABC), TOTAL ALLOWABLE CATCH (TAC), INITIAL TAC (ITAC), AND INTERIM ITAC APPORTIONMENTS OF GROUNDFISH IN THE BERING SEA AND ALEUTIAN ISLANDS AREA [1] [2]—CONTINUED

Species	ABC	TAC	Initial TAC [3]	DAP=ITAC [4]	Interim DAP=¼ ITAC [5]
Sharpchin/Northern:					
AL	4,000	3,440	2,924	2,924	731
Shortraker/Rougheye:					
AL	1,400	1,245	1,058	1,058	265
Other rockfish: [6]					
BS	400	400	340	340	85
AL	900	900	765	765	191
Squid	3,600	3,600	3,060	3,060	765
Other species [9]	27,100	15,000	12,750	12,750	3,187
Totals	2,768,100–2,878,300	1,704,800	1,449,080	1,449,080	362,271

Footnotes:
[1] Amounts are in metric tons and apply to entire Bering Sea (BS) and Aleutian Islands (AI) area unless otherwise specified.
[2] Zero amounts of groundfish are specified for Joint Venture Processing (JVP) and Total Allowable Level of Foreign Fishing (TALFF).
[3] Initial TAC (ITAC)=0.85 of TAC; initial reserve=TAC—ITAC=255,720.
[4] DAP=domestic annual processing=ITAC.
[5] Interim ITAC amounts are 25 percent of ITAC amounts in Table 1. For pollock, interim ITAC is the amount of ITAC apportioned to the roe season.
[6] Bogoslof District (BD) subarea proposed under Amendment 17 to the FMP.
[7] "Other red rockfish" includes shortraker, rougheye, northern and sharpchin.
[8] "Other rockfish" includes *Sebastes* and *Sebastolobus* species except for Pacific Ocean perch and the "other red rockfish" species.
[9] "Other species" includes sculpins, sharks, skates, eulachon, smelts, capelin, squid, and octopus.

A brief discussion of the revisions adopted by the Council follows:

Aleutian Basin pollock. The SSC concurred with the Plan Team's concept that three stocks of pollock exist in the BSAI: an Eastern Bering Sea shelf stock, an Aleutian Islands stock, and an Aleutian Basin (Bogoslof District) stock. As such, separate ABCs and TACs are specified for each stock. Existing regulations do not specify the Bogoslof District as a separate subarea of the BSAI for purposes of pollock stock management. At its August 13–15, 1991, meeting, the Council adopted a definition for the Bogoslof District subarea under proposed Amendment 17 to the FMP.

The proposed amendment and its implementing regulations have been submitted to the Secretary for review and approval. For purposes of this notice, a provisional pollock TAC is specified for the Bogoslof District that, pending approval by the Secretary, would be authorized under regulations implementing Amendment 17. The proposed Bogoslof District would be defined as Federal reporting area 518 as described in the February 6, 1991, emergency rule that limited the amount of pollock that could be taken in the Bogoslof District during the pollock roe season (56 FR 5659; February 12, 1991).

The SSC concurred with the Plan Team's preliminary biomass and ABC recommendations for the BSAI pollock stocks. The SSC recommended that the preliminary estimate of biomass for the Aleutian Basin pollock stock be reduced from the Plan Team's estimate of 600,000 mt to 445,000 mt to account for natural mortality. The SSC further recommended that the 1992 ABC amount for the Aleutian Basin pollock stock be reduced from the Plan Team's recommendation of 138,000 mt to a range of 0–102,000 mt. The upper limit of this range reflects the biomass estimate of 445,000 mt against which an assumed catch/biomass ratio of 0.23 is applied. The SSC cautioned that an ABC of 102,000 mt may be too high considering: (1) The three-to five-fold decrease in catch per unit effort (CPUE) observed in the fishery that exploits this stock in the international zone of the Bering Sea (i.e., the Donut Hole); and (2) the decline in survey biomass levels from 2.1 million mt in 1989 to 0.6 million mt in 1991. The SSC further cautioned that the declining biomass of the portion of the Aleutian Basin stock that spawns in the vicinity of Bogoslof Island may inhibit the Bogolsof Island rookery site.

Yellowfin sole. The Plan Team recommended an ABC of 277,000 mt based on a yield-per-recruit corresponding to $F_{0.1}=0.14$ multiplied by the average recruitment condition estimated from a stock synthesis model. The SSC recommended an ABC of 372,000 mt based on $F_{0.1}$ multiplied by the estimated 1992 biomass from the stock synthesis model (2.66 million mt). The SSC preferred the latter procedure for calculating ABC, because it is consistent with harvest policy on other groundfish stocks (i.e., multiplication of a harvest rate by estimated biomass).

Pacific Ocean perch (POP) complex. The Plan Team calculated separate ABCs for three components of the POP complex in the BSAI management areas: (1) True POP, (2) sharpchin and northern rockfish, and (3) shortraker and rougheye rockfish. The SSC recommended that shortraker, rougheye, sharpchin, and northern rockfish be combined into a single group, "other red rockfish," in the Bering Sea management area. The SSC asserts that the additional protection afforded to shortraker and rougheye by separating these species into their own group in the Bering Sea is insignificant because over 95 percent of the combined BSAI and Gulf of Alaska (GOA) shortraker/rougheye biomass occurs in the Aleutian Islands management area and the GOA. The recommended ABC for the "other red rockfish" is 1,800 mt. This figure is the sum of the ABCs calculated by the Plan Team for shortraker/rougheye (400 mt) and sharpchin/northern (1,400 mt).

Proposed TAC Specifications

For purposes of this notice, the Council recommended the proposed TACs and apportionments in Table 1 based on the best available biological and socioeconomic information. In general, the Council recommended that proposed TACs for individual groundfish species or species groups be set at either the 1991 TAC level or the preliminary 1992 ABC amount, whichever is less. The Council recommended a further reduction in the proposed TACs for the following species:

Eastern Bering Sea pollock. The recommended TAC of 1.1 million mt is the midpoint of a 0.9–1.3 million mt range of TAC the Council intends to consider at its December meeting. The Council expressed an intent to consider a TAC level below ABC in view of projected declines in pollock biomass.

Aleutian Basin (Bogoslof District) pollock. The SSC's preliminary

recommendation for ABC is expressed as a range between 0–102,000 mt. The Council set the proposed TAC level at 20,000 mt to provide for bycatch in other groundfish operations.

Pacific cod. The Council recommended a proposed TAC of 180,000 mt in response to a 26 percent decline in biomass between 1989 and 1990 and poor recruitment over the past 2 years. The Council noted that the TAC may be further reduced at its December meeting after consideration of new information that may be presented on the status of this species in the final 1992 SAFE report.

Rock sole and "other flatfish." The Council recommended proposed 1992 TACs for rock sole and "other flatfish" of 60,000 mt and 40,000 mt, respectively. These amounts are reduced from the 1991 TACs of 90,000 mt and 64,675 mt, respectively, to more closely reflect actual harvest levels during 1991 of 45,500 mt and 16,500 mt, respectively.

The Council also recommended that the proposed TAC for squid be increased from 1,000 mt to the ABC level of 3,600 mt to more accurately reflect anticipated catches during 1992.

The Plan Team will revise the preliminary September 1991 SAFE report at its November 1991 meeting and produce a final 1992 SAFE report with updated ABC recommendations. At its December 1991 meeting, the Council will recommend TACs to the secretary that are based on the ABCs and adjusted for other biological and socioeconomic considerations. The TACs may be further adjusted so that their sum does not exceed the maximum optimum yield allowed by the FMP.

Apportionment of TAC

As required by §§ 657.20(a)(3) and 675.20(a)(7)(i), each species TAC initially is reduced by 15 percent. The sum of these 15 percent amounts is the reserve. The reserve is not designated by species or species group and any amount of the reserve may be reapportioned to a target species or the "other species" category during the year, provided that such reapportionments do not result in overfishing.

The initial TAC (ITAC) for each target species and the "other species" category at the beginning of the year, which is equal to 85 percent of TAC, is then apportioned between the domestic annual harvest (DAH) category and the total allowable level of foreign fishing (TALFF). Each DAH amount is further apportioned between two categories of U.S. fishing vessels. The domestic annual processing (DAP) category includes U.S. vessels that process catch on board or deliver it to U.S. fish processors. The joint venture processing (JVP) category includes U.S. fishing vessels working in joint ventures with foreign processing vessels that are authorized to receive catches in the exclusive economic zone.

In consultation with the Council, the initial amounts of DAP and JVP are determined by the director, Alaska Region, NMFS (Regional Director). Consistent with the final notice of 1991 initial specifications, the Council recommended that 1992 DAP specifications be set equal to TAC and that zero amounts of groundfish be allocated to JVP and TALFF. In making this recommendation, the Council considered the continued growth in DAP harvesting and processing capacity and anticipates that 1992 DAP operations will harvest the full TAC specified for each BSAI groundfish species category.

The proposed ABCs, TACs, ITACs, and initial apportionments of groundfish in the BSAI area for 1992 are given in Table 1. These proposed specifications are subject to change as a result of public comment, analysis of the current biological condition of the groundfish stocks, and consultation with the Council at its meeting scheduled for December 2–6, 1991.

Regulations under § 675.20(a)(7)(i) require one-fourth of each proposed ITAC and the first seasonal allowance of pollock to be in effect at the start of a fishing year on an interim basis and remain in effect until superseded by a final **Federal Register** notice of initial specifications. Proposed seasonal allowances of pollock are discussed below. The interim ITAC and DAP specifications for the 1992 fishing year also are given in Table 1.

Seasonal Allowances of Pollock TAC

Under § 675.20(a)(2)(ii), the TAC of pollock for each subarea of the BSAI area is allocated between two seasons (i.e. the roe season, January 1 through April 15, and the non-roe season, June 1 through December 31). Furthermore, the division of pollock TAC into seasonal allowances occurs after subtraction of reserve as provided under § 675.20(a)(3).

For purposes of this notice, the council recommended that the seasonal allowance of pollock be set at the same relative levels as in 1991, or 40 percent of the pollock ITAC specified for each management subarea during the roe season and 60 percent during the non-roe season. Existing regulations designate two subareas for purposes of pollock management: The Aleutian Islands subarea and the Bering Sea subarea. As such, the 40/60 split of initial pollock TAC is specified for each subarea. The Council has adopted Amendment 17 to the FMP that would establish the Bogoslof District as a third subarea for purposes of pollock stock management. Pending Secretarial approval of Amendment 17, the 40/60 seasonal split of pollock ITAC would also apply to the provisional ITAC specified for this District under Amendment 17.

when specifying seasonal allowances of the pollock TAC, the Council and the Secretary consider the following nine factors as listed in the FMP:

1. Estimated monthly pollock catch and effort in prior years;
2. Expected changes in harvesting and processing capacity and associated pollock catch;
3. Current estimates of the expected changes in pollock biomass and stock conditions, conditions and marine mammal stocks, and biomass and stock conditions of species taken as bycatch in directed pollock fisheries;
4. Potential impacts of expected seasonal fishing for pollock on pollock stocks, marine mammals, and stocks of species taken as bycatch in directed pollock fisheries;
5. The need to obtain fishery-related data during all or part of the fishing year;
6. Effects on operating costs and gross revenues;
7. The need to spread fishing effort over the year, minimize gear conflicts, and allow participation by various elements of the groundfish fleet and other fisheries;
8. Potential allocative effects among users and indirect effects on coastal communities; and
9. Other biological and socioeconomic information that affects the consistency of seasonal pollock harvest with the goals and objectives of the FMP.

These factors were not rigorously considered by the Council at its meeting of September 23–29, 1991, due to the absence of current fishery data. Public comment is solicited especially on the effects of the recommended seasonal allowances with respect to these nine factors. If Amendment 17 is implemented as proposed and the pollock TAC for 1992 in each subarea is specified as indicated in Table 1 of this notice, and if the Council reaffirms its recommended 40/60 apportionment for each subarea, then the pollock ITAC would be divided into the seasonal allowances for 1992 given in Table 2.

TABLE 2.—PROVISIONAL ALLOCATION OF POLLOCK TAC (MT) BY SEASON

Subarea	TAC [1]	ITAC [2]	Roe season [3]	Non-roe season [4]
Bering Sea	1,100,000	935,000	374,000	561,000
Aleutian Islands	75,900	64,515	25,806	38,709
Bogoslof District	20,000	17,000	6,800	10,200

[1] TAC=total allowable catch.
[2] Initial TAC (ITAC)=0.85 of TAC; 0.15 of TAC is apportioned to reserve.
[3] January 1 through April 15.
[4] June 1 through December 31.

Apportionment of Pollock TAC to the Non-Pelagic Trawl Gear Fishery

Regulations under § 675.24(c)(2) authorize the Secretary, in consultation with the Council, to limit the amount of pollock TAC that may be taken in the directed fishery for pollock using non-pelagic trawl gear. This authority is intended to reduce the amount of Pacific halibut and crab bycatch that occurs in non-pelagic trawl operations. Limitations on the amount of pollock taken in the non-pelagic trawl fishery were not implemented in 1991 because the amount of pollock taken with non-pelagic trawl gear and the associated bycatch of crab and Pacific halibut were sufficiently low as to eliminate the need for further restriction under separate regulatory action. Through September 29, 1991, the amount of pollock taken with non-pelagic trawl gear was less than six percent of the total pollock harvest. Relatively small harvest amounts of pollock with non-pelagic trawl gear are again anticipated in 1992. The Council proposed that no regulatory action be taken to further restrict the amount of pollock TAC harvested with non-pelagic trawl gear in 1992.

Allocation of Prohibited Species Catch (PSC) Limits

Crab, Pacific Halibut, and Pacific Herring

PSC limits of red king crab and *Chionoecetes bairdi* Tanner crab in specific zones (50 CFR 675.2) of the Bering Sea subarea and for Pacific halibut throughout the BSAI area are specified under § 675.21(a). The PSC limits are:

—200,000 red king crabs applicable to Zone 1;
—1 million *C. bairdi* Tanner crabs applicable to Zone 1;
—3 million *C. bairdi* Tanner crabs applicable to Zone 2;
—4,400 mt of Pacific halibut (primary PSC limit) applicable to Zones 1 and 2H; and
—5,333 mt of Pacific halibut (secondary PSC limit) applicable to the entire BSAI area.

The PSC limit of Pacific herring caught while conducting any trawl operation for groundfish in the BSAI is one percent of the annual eastern Bering Sea Pacific herring biomass. A preliminary estimate of 1991 Pacific herring biomass based on 1991 survey data is 125,000 mt, for a proposed 1992 PSC limit of 1,250 mt. Final Pacific herring biomass estimates will be presented to the Council at its December 1991 meeting.

Regulations under § 675.21(b) authorize the apportionment of each PSC limit into PSC allowances that are assigned to specified fishery categories. Existing regulations at § 675.21(b)(4) specify six fishery categories for this purpose (midwater pollock, Greenland turbot, rock sole, yellowfin sole/"other flatfish," "other fisheries," and JVP). At its December 1991 meeting, the Council is scheduled to take final action on a proposed regulatory amendment that would redefine the fishery categories for purposes of assigning prohibited species bycatch allowances. If the Council adopts the regulatory amendment at its December meeting, it must assign prohibited species bycatch allowances, and seasonal apportionments thereof, to each of the following proposed fishery categories: midwater pollock, Greenland turbot/arrowtooth flounder, yellowfin sole, rock sole/"other flatfish," Pacific cod, and "other fisheries." These specifications for prohibited species bycatch allowances would then be implemented under separate rulemaking to implement the regulatory amendment.

For purposes of this notice, notwithstanding action on the proposed regulatory amendment in December, the Council proposed that the 1992 prohibited species bycatch allowances, and seasonal apportionments thereof, remain unchanged from those published in the final notice of initial specifications for the 1991 fishing year (56 FR 6290; February 15, 1991) (Table 3).

TABLE 3.—Proposed 1992 Prohibited Species Catch Allowances

Fisheries	Zone 1	Zone 2	Zones 1+2H BSAI-wide	
Red king crab, number of animals:				
DAP flatfish	40,000			
DAP rocksole	150,000			
DAP turbot	0			
DAP other	10,000			
C. bairdi tanner crab, number of animals:				
DAP flatfish	100,000	825,000		
DAP rocksole	700,000	300,000		
DAP turbot	0	50,000		
DAP other	200,000	1,825,000		
Pacific halibut, metric tons:				
			Primary Pacific Halibut	Secondary Pacific Halibut
DAP flatfish			660	800

TABLE 3.—Proposed 1992 Prohibited Species Catch Allowances—Continued

Fisheries	Zone 1	Zone 2	Zones 1+2H BSAI-wide	
DAP rocksole			908	1,100
DAP turbot			165	200
DAP other			2,667	3,233
Pacific herring, metric tons:				
Midwater pollock				875
DAP flatfish				12
DAP rocksole				0
DAP turbot				125
DAP other				238

The proposed 1,250 mt Pacific herring PSC limit is proposed to be apportioned to fisheries in the same relative proportion as the 1991 Pacific herring PSC limit. The apportionments of the 1991 Pacific herring PSC limit were specified in the final rule that implemented Amendment 16a (56 FR 32984; July 18, 1991). Zero amounts of Pacific herring are allocated to the rocksole fishery. This bycatch allowance, therefore, would prohibit directed fishing for rocksole in the Herring Savings Areas during 1992. Exclusion of the rocksole fishery from the Herring Savings Areas is not perceived to be a problem by the Council because this fishery is not normally conducted in these areas.

Prohibited species bycatch allowances for Pacific herring and the seasonal apportionment of those allowances may be subject to change at the December 1991 Council meeting pending public comment, Council action on the proposed regulatory amendment, year-to-date information on bycatch performance, and updated information on anticipated fishing patterns in 1992.

Regulations at § 675.20(a)(7)(i) also require that one-fourth of each proposed PSC allowance be made available on an interim basis for harvest at the beginning of the fishing year until superseded by final notice of initial specifications. The interim PSC allowances are given in Table 4.

TABLE 4.—INTERIM 1992 PROHIBITED SPECIES CATCH ALLOWANCES [1]

Fisheries	Zone 1	Zone 2	Zones 1+2H	BSAI-wide
Red king crab, number of animals:				
DAP flatfish	10,000			
DAP rocksole	37,500			
DAP turbot	0			
DAP other	2,500			
C. bairdi Tanner Crab, number of animals:				
DAP flatfish	25,000	206,250		
DAP rocksole	175,000	75,000		
DAP turbot	0	12,500		
DAP other	50,000	456,250		
Pacific Halibut, metric tons:				
			Primary Pacific Halibut	Secondary Pacific Halibut
DAP flatfish			165	200
DAP rocksole			227	275
DAP turbot			41	50
DAP other			667	808
Pacific Herring, metric tons:				
Midwater pollock				219
DAP flatfish				3
DAP rocksole				0
DAP turbot				31
DAP other				60

[1] Amounts are 25 percent of those in Table 3.

Groundfish PSC Limit

No PSC limits for groundfish species are specified in this notice. Authority to specify annual PSC limits for groundfish species or species groups for which the TAC can be completely harvested by domestic fisheries is provided at § 675.20(a)(6). In practice, these PSC limits apply only to JVP or TALFF fisheries for species that have a zero JVP or TALFF apportionment. At this time, no groundfish are proposed to be allocated to either JVP or TALFF and specifications of groundfish PSC limits are unnecessary.

Sablefish Gear Allocation

Regulations under § 675.24(c)(1) require that sablefish TACs for the BSAI subareas be divided between trawl and hook-and-line/pot gear fisheries. Gear allocations of TACs are specified in the following proportions:

Bering Sea subarea: trawl gear—50 percent; hook-and-line/pot gear—50 percent, and

Aleutian Islands subarea: trawl gear—25 percent; hook-and-line/pot gear—75 percent.

If the specifications in Table 1 are adopted for the 1992 fishing year, proposed trawl gear and hook-and-line/pot gear allocations of sablefish in each subarea are listed in Table 5.

TABLE 5.—PROPOSED GEAR SHARES OF SABLEFISH TAC

Subarea	Gear	Percent of TAC	Share of TAC (mt)	Share of ITAC (mt) [1]
Bering Sea	Trawl	50	1,550	1,317
Bering Sea	Hook-and-line/pot gear	50	1,550	1,317
Aleutian Islands	Trawl	25	800	680
Aleutian Islands	Hook-and-line/pot gear	75	2,400	2,040

[1] Initial TAC (ITAC) = 0.85 of TAC, rounded to the nearest whole mt; 0.15 of TAC is apportioned to reserve. The sum of both ITAC gear shares in a subarea is equal to the ITAC for that subarea in Table 1.

Delay of the 1992 Fishing Season

The Council has recommended that the start of the 1992 fishing season for vessels using trawl gear be delayed until January 20, 1992. Directed fishing for yellowfin sole, "other flatfish," Greenland turbot, and arrowtooth flounder will continue to be delayed until May 1, 1992, as set forth under regulations at 675.23(c). Under the rule recommended by the Council, vessels using other than trawl gear could commence fishing on January 1, 1992. The delay of the trawl fisheries is intended to reduce the possibility of high bycatch amounts of Pacific halibut and chinook salmon during the first part of the fishing year.

Other Matters

This action is authorized under 50 CFR 611.93(b) and 675.20, complies with Executive Order 12291, and is covered by the regulatory flexibility analysis prepared for the implementing regulations.

List of Subjects

50 CFR Part 611

Fisheries, Foreign relations, Reporting and recordkeeping requirements.

50 CFR Part 675

Fisheries, Reporting and recordkeeping requirements.

Authority: 16 U.S.C. 1801 *et seq.*

Dated: November 14, 1991.

Samuel W. McKeen,

Acting Assistant Administrator for Fisheries, National Marine Fisheries Service.

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50 CFR Part 652

[Docket No. 911180-1280]

Atlantic Surf Clam and Ocean Quahog Fisheries

AGENCY: National Marine Fisheries Service (NMFS), NOAA, Commerce.

ACTION: Notice of proposed 1992 fishing quotas.

SUMMARY: NMFS issues this notice of proposed quotas for the Atlantic surf clam and ocean quahog fisheries for 1992. These quotas were selected from a range defined as optimum yield (OY) for each fishery. The intended effect of this action is to establish allowable harvests of surf clams and ocean quahogs from the exclusive economic zone in 1992.

DATES: Public comments must be received on or before December 16, 1991.

ADDRESSES: Copies of the Mid-Atlantic Fishery Management Council's Analysis and Recommendations are available from John C. Bryson, Executive Director, Mid-Atlantic Fishery Management Council, room 2115, Federal Building, 300 South New Street, Dover, DE 19901.

Send comments on the proposed 1992 fishing quotas to Richard B. Roe, Regional Director, Northeast Region, NMFS, One Blackburn Circle, Gloucester, MA 01930. Mark on the outside of the envelope, "Comments—1992 Surf Clam and Ocean Quahog Specifications."

FOR FURTHER INFORMATION CONTACT: Myles Raizin (Resource Policy Analyst) 508-281-9104.

SUPPLEMENTARY INFORMATION: The Fishery Management Plan for the Atlantic Surf Clam and Ocean Quahog Fisheries (FMP) directs the Secretary of Commerce (Secretary), in consultation with the Mid-Atlantic Fishery Management Council (Council), to specify quotas for surf clams and ocean quahogs on an annual basis from within ranges that have been identified as an OY for each fishery.

For surf clams, the quota must fall within the range of 1.85 million bushels and 3.40 million bushels. For ocean quahogs, the quota must fall within the range of 4.00 million bushels and 6.00 million bushels.

In proposing the quotas, the Secretary considered the latest available stock assessments prepared by NMFS, data reported by harvesters and processors, and other relevant information concerning exploitable biomass and spawning biomass, fishing mortality rates, stock recruitment, projected effort and catches, and areas closed to fishing. This information was presented in a written report prepared by the Council and adopted by the Regional Director, Northeast Region, NMFS.

Proposed quotas of 2.85 million bushels for surf clams and 5.3 million bushels for ocean quahogs were recommended by the Council. These proposed quotas are identical to those recommended by the Council and specified by the Secretary for the 1991 fisheries.

Surf Clams

The 1992 proposed quota for surf clams of 2.85 million bushels is identical to the base quota for the Mid-Atlantic region and Nantucket Shoals combined for the years 1986 through 1991. The potential harvest of 300,000 bushels for the George Bank Area (i.e., base quota in those years for this area) was not added to this proposed quota on the assumption that the area east of 69° west longitude will be closed for fising in 1992 due to the danger of paralytic shellfish poisoning. Under the current FMP, the Mid-Atlantic, Nantucket Shoals, and Georges Banks Areas are combined. Therefore, the 300,000 bushels could be taken in the areas west of 69° west longitude. However, with the decline in abundance of surf clams in the Mid-Atlantic Area and the absence of a significant year class since 1976 off New Jersey and 1977 off Delmarva, conservation of the resource is best served by maintaining the current quota of 2.85 million bushels.

Ocean Quahogs

The 1992 proposed quota for ocean quahogs is 5.3 million bushels. Since only two percent of the minimum biomass estimate is removed each year, this level of quota is conservative in regard to biological restrictions. However, the heavy concentration of the active fishery and the subsequent decrease of catch per unit of effort on the southern 10 percent of the resource caused the Council to recommend this level of quota.

In addition, the Council believes the allowance of an increased quota would cause disruptions to the quahog market,

thereby causing disruptions to the fishery at a time when a new management regime (individual transferable quotas) has been put into place.

The proposed quotas for the 1992 Atlantic surf clam and ocean quahog fisheries are as follows:

1992 PROPOSED SURF CLAM/OCEAN QUAHOG QUOTAS

Fishery	1992 final quotas (in bushels)
Surf clam	2,850,000
Ocean quahog	5,300,000

Other Matters

This action is taken under authority of 50 CFR 652.21 and in compliance with E.O. 12291.

List of Subjects in 50 CFR Part 652

Fisheries, Recordkeeping and reporting requirements.

Authority: 16 U.S.C. 1801 *et seq.*

Dated: November 14, 1991.

Samuel W. McKeen,

Acting Assistant Administrator for Fisheries, National Marine Fisheries Service.

[FR Doc. 91-27859 Filed 11-14-91; 5:03 p.m.]

BILLING CODE 3510-22-M

Notices

Federal Register
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Wednesday, November 20, 1991

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

DEPARTMENT OF AGRICULTURE

General Conference Committee of the National Poultry Improvement Plan; Renewal

AGENCY: U.S. Department of Agriculture, USDA.

ACTION: Notice of renewal of the General Conference Committee of the National Poultry Improvement Plan.

SUMMARY: We are giving notice that the Secretary of Agriculture has renewed the General Conference Committee of the National Poultry Improvement Plan (Committee) for a 2-year period. The Secretary has determined that the Committee is in the public interest.

FOR FURTHER INFORMATION CONTACT: Mr. Andrew Rhorer, National Coordinator, National Poultry Improvement Plan, VS, APHIS, USDA, room 770, Federal Building, 6505 Belcrest Road, Hyattsville, MD 20782 (301) 436–7679.

SUPPLEMENTARY INFORMATION: We are giving notice that the Secretary of Agriculture has renewed the General Conference Committee of the National Poultry Improvement Plan for a 2-year period. The purpose of this Committee is to maintain and ensure industry involvement in Federal administration of matters pertaining to poultry health.

There are 7 members on the Committee with 4-year staggered terms. This Committee differs somewhat from other Advisory Committees in the selection process and composition of its membership. The poultry industry elects the members to the Committee. The members represent six geographic areas with one member-at-large. The membership is not subject to USDA review, and a formal request for nominations for membership is not published in the **Federal Register.**

Done in Washington, DC, this 7th day of November 1991.

Charles R. Hilty,

Associate Deputy Secretary.

[FR Doc. 91–27922 Filed 11–19–91; 8:45 am]
BILLING CODE 3410–34–M

Farmers Home Administration

Notice of Availability of Housing Funds

AGENCY: Farmers Home Administration, USDA.

ACTION: Notice.

SUMMARY: The Farmers Home Administration (FmHA) announces the availability of housing funds for Fiscal Year (FY) 1992. This action is taken due to legislation which requires that FmHA publish in the **Federal Register** notice of the availability of any housing assistance. The intended effect is to comply with Public Law 101–235 and make the public aware of housing funds available through FmHA.

DATES: November 20, 1991.

FOR FURTHER INFORMATION CONTACT: David J. Villano, Chief, Rural Rental Housing Branch, Multi-Family Housing Processing Division, FmHA, USDA, room 5337, South Agriculture Building, Washington, DC 20250, telephone (202) 382–1608 (this is not a toll free number).

SUPPLEMENTARY INFORMATION:

Programs Affected

These programs/activities are listed in the Catalog of Federal Domestic Assistance under Nos:

10.405 Farm Labor Housing Loans and Grants
10.410 Low Income Housing Loans
10.411 Rural Housing Site Loans
10.415 Rural Rental Housing Loans
10.417 Very Low Income Housing Repair Loans and Grants
10.420 Rural Self-Help Housing Technical Assistance Grants
10.427 Rural Rental Assistance Payments
10.433 Housing Preservation Grants

Discussion of Notice

7 CFR, part 1940, subpart L contains the "Methodology and Formulas for Allocation of Loan and Grant Program Funds." The following guidance has been provided to FmHA field offices on Fiscal Year 1992 appropriations and access to funds. The guidance is separated between assistance available in our Multi and Single Family Housing Programs:

Muti-Family Housing (MFH)

I. General

A. This provides MFH allocations available to individual States for Fiscal Year (FY) 1992. Allocation computations have been performed in accordance with §§ 1940.575, 1940.576, and 1940.578 of subpart L of part 1940 of this chapter. The transition formula is not used.

B. State Directors are encouraged to notify nonprofit and public housing agencies of the availability of MFH loan and grant funds.

C. MFH loan and grant levels authorized for FY 92 are as follows:

Section 515 Rural Rental Housing (RRH) Loans	$573,900,000
Section 514 Farm Labor Housing (FLH) Loans	16,300,000
Section 516 FLH Grants (Unobligated prior year funds will be added to the amount shown)	11,000,000
Section 533 Housing Preservation Grants (HPG)	23,000,000
Section 521 Rental Assistance:	
RRH New Construction	128,158,000
FLH New Construction	5,214,000

D. MFH loan types not allocated to States are:

1. *Section 514 FLH Loans.* These loans are funded in accordance with § 1940.579 (a) of subpart L of part 1940 of this chapter. Five (5) percent of FY 92 FLH appropriation has been set aside under the Rural Housing Targeting Set Aside (RHTSA) for those counties designated as underserved in accordance with exhibit C of subpart L of part 1940 of this chapter. Loans within the State Director's approval authority may be obligated on a first-come, first-served basis. Proposals that include FLH grant requests or for loan amounts in excess of the State Director's approval authority are to be submitted to the Director, Multi-Family Housing Processing Division (MFHPD).

2. *Section 516 FLH Grants.* These grants are funded in accordance with § 1940.579 (b) of subpart L of part 1940 of this chapter.

FY 92 Appropriation	$11,000,000
Grant carryover from prior fiscal years	2,758,371
Reserve for Migrant Farmworkers and the Rural Homeless	2,000,000
Available for FLH Grants and Technical Assistance Contracts	$11,758,371

3. *Section 516 FLH Grants for Migrant Farmworkers and the Rural Homeless.* Funds have been administratively reserved until June 30, 1992, for applicants for proposed housing under existing regulations to serve the dual population of migrant farmworkers and the homeless.

State Directors and District Directors are encouraged to promote the concept of dual purpose housing in partnership with State or local nonprofit community service agencies in agricultural market areas for migrant farmworkers and homeless individuals and their families. Project demand must be based primarily on the need for migrant farmworker housing and feasibility can be based on 90 percent grant and 100 percent Rental Assistance. Proposals and discussions for this dual use housing should consider very basic yet durable structures that can be either built new or purchased and rehabilitated. All proposals should be considered and further information may be obtained by contacting the Multiple Housing Processing Division, Special Authorities Branch.

4. *Section 516 Grants for Technical Assistance (TA) Contracts.* The funding availability for TA Contracts is based on the grant appropriation. TA is available for the development of labor housing exclusively for farmworkers and may also be used in those unique agricultural markets where there is a homeless population. More information may be obtained by contacting the Multiple Housing Processing Division, Special Authorities Branch. The Agency plans to solicit for contract proposals later in the fiscal year for FY 93 TA contracts.

5. *Rental Assistance for Farm Labor Housing—New Construction.* This RA is held in a National Office reserve for use with concurrent loan and grant applications in accordance with paragraph IIB6b(ii)B.

II. State Allocations

All allocations have been developed with the methodology and formulas stated in subpart L of part 1940 of this chapter. The funds distributed to each State for a particular quarter may exceed the funds available nationally for all States. Therefore, if funds become exhausted at the National level, some States will not have access to their full distribution for the remainder of the quarter.

A. Section 515 RRH Funds

1. *Amount Available for Allocation.*

Total available	$573,900,000
Less 15 percent reserve	86,085,000
Less base allocation	3,006,000
Less administrative allocation	3,500,000
Basic formula amount	$481,309,000

2. *Base allocation.* The base allocation is an amount above the computed formula amount sufficient for each State to fund two 24-unit projects, based upon FY 91 loan activity. Regions that receive administrative alocations do not receive base allocations.

3. *Administrative allocation.* The regions of the Western Pacific Areas and Virgin Islands are allocated $1,750,000 each which is the equivalent of 24-unit projects, based upon FY 91 loan activity.

4. *Nonprofit Set Aside (NPSA).* Nine (9) percent of each States' FY 92 allocation has been set aside in the National Office for certain nonprofit applicants. These funds have been deducted from the State distributions. See exhibit B of subpart L of part 1940 of this chapter for further information on the NPSA.

5. *RHTSA.* Five (5) percent of FY 92 RRH appropriation has been set aside for those counties designated as underserved. These funds will come from the National Office reserve. See exhibit C of subpart L of Part 1940 of this chapter for further information on RHTSA.

6. *Reserves*—a. *State Office reserve:* In States which allocate funds to Districts, § 1940.552 (j) of subpart L of part 1940 of this chapter authorizes the State Director to hold a reserve. Such reserves, if established, will be available *only* for patch-outs, subsequent loans for repairs, transfers and cost overruns, leveraging under RHTSA and NPSA, hardships or emergency situations. The State Director will maintain records on how State Office reserves were utilized, including a justification for each disbursement.

b. *National Office reserve:* The reserve is 15 percent of the total funds available and is broken down as follows:

(i) General Reserve: $22,435,000 in general reserve funds have been set aside for subsequent loans for repairs, transfers, patch-outs, and emergency or hardship cases *only* until June 1, 1992. This amount has been substantially reduced from previous fiscal years. Only limited funds may be available for other than the above described purposes after June 1, 1992. Further guidance on how to access reserve funds will be published administratively prior to June 1, 1992.

(ii) Designated Reserves: (A) *RHTSA.* $28,650,000 has been set aside for those counties designated as underserved. These funds will be subject to year end pooling requirements.

(B) *State RA:* $10 million of the RRH funds have been set aside for States in which an active State sponsored RA program is available. The State RA program must be comparable to FmHA RA. To participate in this reserve, the State Director should submit a written request with specific information about the State RA program; i.e., memorandum of understanding, documentation from the provider, etc. to the Director, MFHPD, no later than January 24, 1992. Funds will be distributed to participating States based on a pro-rata share of State RA units being provided. These funds are subject to year-end pooling requirements.

(C) *Equity loans:* $25,000,000 has been set aside for the equity loan prepayment incentive features described in exhibit E to subpart B to part 1965 of this chapter. The funds will be made available by quarter as follows:

(1) First quarter—up to 40 percent of the funds allocated may be used.

(2) Second quarter—up to 70% of the funds available may be used.

(3) Third and fourth quarter—the balance of the available funds may be used. All equity loan requests must be forwarded by the State Director to the National Office for authorization using FmHA Form Letter 1965–B–1, (available in any FmHA office) and in accordance with the provisions of subpart B of part 1965 of this chapter. Any requests that exceed the quarterly allocation will be priortized for future funding based on the date of receipt of FmHA Form Letter 1965–B–1 (available in any FmHA office) in the National Office from the State Director.

(4) Equity loan funds are subject to year end pooling requirements. The amount and percentages of equity funds available may be changed administratively by FmHA based upon use and/or need for funds.

7. *Pooling of funds*—a. *State Office pooling.* In States which allocate funds to Districts, States are *not* authorized to pool unobligated funds prior to May 1, 1992.

b. *National Office pooling.* Unused RRH funds will be placed in the

National Office reserve and will be made available administratively. Year-end pooling of all RRH funds is scheduled for COB August 14, 1992.

8. *Availability of the allocation.* States are authorized to approve, during the first quarter of FY 92, up to 40 percent of their RRH allocation indicated in this exhibit and up to 70 percent during the second quarter. The remaining balances are fully available in the third and fourth quarters. In states that do not have sufficient funds to obligate at least one project during the first or second quarters, the State Director may request authorization from the Director, MFHPD, to exceed the designated percentages. Patch-outs may be authorized from next quarter allocations, provided the request does not exceed 30 percent of the total loan obligation. The State Director may authorize AD–622s not to exceed 150 percent of the net annual allocation available to the State.

9. *Suballocation by the State Director.* Funds may be suballocated to District Offices, at the discretion of the State Director, in accordance with § 1940.552 (j) of subpart L of part 1940 of this chapter.

B. *Rental Assistance*

1. *Valuation of New Construction RA.* A total of $128,158,000 is available for RRH new construction RA and $5,214,000 for FLH new construction RA. This equates to an estimated 12,763 units for the RRH and FLH loan programs. To determine the number of RA units available nationwide, a national weighted average of $10,450 was utilized for new construction RA. All RA units held in the reserves are estimated, based on the national average.

2. *Estimated units available for allocation.*

Estimated total units available	12,763
LH	499
RRH	12,264
NPSA	900
Less RRH reserve	1,226
Less RRH base allocation	56
Less RRH administrative allocation	70
Basic RRH formula amount	10,012

3. *Base allocation.* The base allocation is an amount above the computed formula sufficient for each State to receive 35 units of RA to assist at least two RRH projects with an average amount of RA.

4. *Administrative allocation.* The regions of the Western Pacific Areas and the Virgin Islands are each allocated 35 units of RA to assist at least two RRH projects with an average amount of RA.

5. *NPSA.* 900 units of new construction RA have been set aside in the National Office for certain nonprofit applicants. See exhibit B of subpart L of part 1940 of this chapter for further information on the NPSA.

6. *Reserves.* The National Office reserve has been reduced to allocate more RA to States.

a. *State Office reserve*: In states which allocate funds and RA to districts, § 1940.552(j) authorizes the State Director to hold a reserve. Such reserves, if established, will be limited *only* to patch-outs and leveraging under the RHTSA, NPSA, hardships or emergency situations. The State Director will maintain records on how the State Office reserves are utilized, including a justification for each disbursement.

b. *National Office reserve*: A reserve of 1,226 units is being held for RRH, which includes 800 units for the RHTSA. The 499 units of RA for FLH are also held in a separate reserve. The reserve is broken down as follows:

(i) *General RRH Reserve*: 426 units of RA have been reserved. Except for patch-outs, hardships or emergency situations, or additional units needed to assist a state in utilizing its full allocation of funds, RA units may not be requested until June 1, 1992. Further guidance on how to access reserve RA will be published administratively prior to June 1, 1992.

(ii) *Designated reserves*—(A) *RHTSA*: 800 units of RA have been reserved under a targeting set aside program for those counties designated as underserved. Further guidance on accessing this reserve will be provided at a later date.

(B) *FLH.* The 499 RA units for Labor Housing (LH) new construction are being retained in a separate LH reserve. Written requests for the LH reserve may be made by State Directors in conjunction with LH loan and grant requests, on a case-by-case basis, to the Director, MFHPD.

7. *Pooling of RA*—a. *State Office pooling.* In states which allocate RA to districts, states are *not* authorized to pool unobligated RA prior to May 1, 1992.

b. *National Office pooling.* Unused RA units will be placed in the National Office reserve and will be made avaliable administratively. Year-end pooling of RA for RRH is scheduled for COB August 14, 1992.

8. *Availability of the allocation.* States are authorized to approve, during the first quarter, up to 40 percent of their RA allocation indicated in this Exhibit and up to 70 percent during the second quarter. The remaining balances are fully available in the third and fourth quarters. In States that do not have sufficient RA for at least one project during the first and second quarters, the State Director may request authorization from the Director, MFHPD, to exceed the designated percentages. Patch-outs may be authorized from next quarter allotments provided the request does not exceed 30 percent of the total RA obligation. The market should determine the need for the number of RA units assigned to a project, keeping in mind that at least 95 percent of the new construction RA assigned to a complex must be made available to serve very-low income tenants, as established in § 1944.215 (f) (3) of subpart E of part 1944 of this chapter. State Directors may authorize AD–622s not to exceed 150 percent of the units allocated to your State.

9. *Suballocation by the State Director.* RA units may be suballocated to District Offices, at the discretion to the State Director, in accordance with § 1940.552 (j) to subpart L of part 1940 of this chapter.

10. *Approval and obligation of RA.* Loans will only be obligated when sufficient RA to ensure market feasibility can be obligated at the same time. RA for loans obligated in a prior fiscal year will not be authorized.

C. Section 533 Housing Preservation Grants (HPG)

1. *Amount available for allocation.*

Total available	$23,000,000
Less reserve	2,300,000
Less base allocation	5,100,000
Less adminstrative allocation	0
Basic formula amount	$15,600,000

2. *Base allocation.* The base allocation is equal to the anticipated size of an average one-year HPG proposal ($100,000) times the number of States and regions. The regions of the Western Pacific Areas and Virgin Islands did not receive base allocations. Fund requests in these regions will be considered from the reserve.

3. *Administrative allocations.* Not used.

4. *Reserve.* Allocated funds must be used prior to requesting reserve funds. Further guidance on accessing the National reserve will be published at a later date.

5. *Pooling of funds.* Funds in excess of the dollar amount of applications on hand will be returned to the National Office reserve for redistribution.

6. *Availability of the allocation.* HPG is a competitive grant program. Opening and closing dates for submission of preapplications will be announced in the **Federal Register.** At this time, it is estimated that the ninety days preapplication period should begin on December 16, 1991. (This date may be revised as well as the pooling date, depending on the publication of the announcement). Subsequent to review and ranking of preapplications and submission of final applications, States are authorized to obligate HPG requests in amounts not to exceed those reflected in this Notice.

III. Exception Authority

The Administrator, or his/her designee, may, in individual cases, make an exception to any requirements herein which are not inconsistent with the authorizing statute, if he/she finds that application of such requirement would adversely affect the interest of the Government or adversely affect the intent of the authorizing statute and/or RRH program or result in an undue hardship by applying the requirement. The Administrator, or his/her designee, may exercise this authority upon the request of the State Director, Assistant Administrator for Housing, or Director of the Multi-Family Housing Processing Division. The request must be supported by information that demonstrates the adverse impact or effect on the program. The Administrator, or his/her designee, also reserves the right to change pooling dates, establish/change minimum and maximum fund usage from set asides and/or the reserve, or restrict particpation in set asides and/or reserves.

IV. [Reserved]

V. [Reserved]

Single Family Housing (SFH)

I. General

A. This provides SFH allocations available to individual States for Fiscal Year (FY) 1992. Allocation computations have been made in accordance with §§ 1940.565 through 1940.568 of subpart L of part 1940 of this chapter. State Directors will make certain that this subpart is implemented within his/her jurisdiction.

B. SFH loan and grant levels authorized for FY 92 are as follows:

Section 502 Subsidized Rural Housing (RH) Loans:	
Very low-income Loans	$518,000,000
Low-income Loans	777,000,000
Nonsubsidized Funds—(See Paragraphs IC5 and IC6.)	
Section 502 Guaranteed RH Loans:	
Nonsubsidized Guarantees	329,500,000
Subsidized Guarantees	0
Section 504 Housing Repair Loans	11,330,000
Section 504 Housing Repair Grants*	12,500,000
Section 524 RH Site Loans	600,000
Section 523 Land Development Fund	500,000
Section 523 Self-Help Technical Assistance Grants*	8,750,000
Section 509 Compensation for Construction Defects*	500,000

*Unobligated/canceled funds from prior fiscal year(s) will be added to the amount shown.

C. SFH loan and grant types not allocated to States are available on a first-come, first-served basis as follows:

1. *Section 523 Self-Help Technical Assistance Grants.* Before obligating funds, State Directors must request in writing and transmit by telefax to the Special Programs Branch, Single Family Housing Processing Division (SFHPD), the following information: name of grantee, amount of obligation and whether funds are for a "predevelopment agreement".

2. *Section 523 Land Development Fund.* Before obligating loan funds for any project, the State Director must request funding authority from the National Office (SFHPD).

3. *Section 524 RH Site Loans.* Prior to loan approval, the State Director must request funding authority from the National office (SFHPD). $30,000 (five percent) fo the FY 92 appropriation have been set aside under RHTSA.

4. *Section 509 Compensation for Construction Defects.* Prior to approval, the State Director must request and receive written funding authority from the National Office, Single Family Housing Servicing and Property Management Division (SFHSPMD).

5. *Section 502 Nonsubsidized Funds (loan making).* a. An initial amount of $25 million has been set aside from the National Office Section 502 reserve for nonsubsidized loans for loan making other than servicing actions. These funds can be increased or decreased at the discretion of the National Office, based on need and the projected availability of unobligated funds. Each State will be given an initial distribution of $400,000 and additional funds can be requested by contacting the National Office (SFHPD).

b. These funds are only for very low- and low-income applicants who are otherwise eligible for assistance, but based on the amount of the loan requested, the interest credit assistance formula results in no interest credit. These funds are to be used for loans on new or existing construction not currently financed or owned by FmHA.

6. *Section 502 Nonsubsidized Funds (loan servicing).* a. An initial amount of $25 million has been set aside from the National Office section 502 reserve for nonsubsidized loans for servicing actions. These funds can be increased or decreased at the discretion of the National Office, based on need and the projected availability of unobligated funds. Each State will be given an initial distribution of $400,000 and additional funds can be requested by contacting the National Office (SFHPD).

b. These funds will be used only for subsequent loans on properties currently financed with FmHA loan funds. Loans to above-moderate income families or persons are not authorized. Loans to very low-, low-, and moderate-income applicants/borrowers who do not qualify for interest credit assistance are authorized only for the following purposes:

(i) Subsequent loans for repair and rehabilitation.

(ii) The subsequent loan part only (i.e., repair or rehabilitation or the payment of equity) in connection with transfers by assumption or credit sales.

D. *Deferred Mortgage Payment Demonstration.* 1. The Deferred Mortgage Payment Demonstration program has the authority to use up to $35 million in section 502 funds in Fiscal Year 92. These funds are available for loans and credit sales. Each State will be given an initial authority to use $500,000 for these purposes under the deferred mortgage program. Additional authority for the deferred mortgage program may be requested based on need and subject to availability by contacting the National Office (SFHPD). New loans obligated will go against the State's very low-income allocation.

II. State Allocations

All allocations have been developed with the methodology and formulas stated in this subpart. The funds distributed to each State for a particular quarter may exceed the funds available nationally for all States. *Therefore, if funds become exhausted at the national level, some States will not have access to their full distribution for the remainder of the quarter.*

A. *Section 502 Nonsubsidized Garanteed RH Loans.* See § 1940.563 of subpart L of part 1940 of this chapter.

1. *Amount available for allocation.*

Total Available	$329,500,000
Less National Office Reserve	16,475,000

Less Base Allocation	846,000
Less Administrative Allocation	2,000,000
Basic Formula Amount	$310,179,000

2. *Basic formula criteria, data source, and weight.* See § 1940.563(b) of subpart L of part 1940 of this chapter. Data derived from the 1980 U.S. Census was provided to each State by National Office unnumbered memorandum dated November 2, 1983 (available in any FmHA State Office). This data is supplemented by the list by county of rural population (places under 2,500 population) provided in unnumbered memorandum dated August 6, 1985 (available in any FmHA State Office).

3. *Transition formula.* Not applicable for use this fiscal year by the National Office or by State Offices.

4. *Base allocation.* The base allocation is an amount, if any, above the computed formula allocation necessary for each State to receive a total allocation sufficient to run a viable program (at least $1,000,000).

5. *Administrative Allocation.* The regions of the Virgin Islands and the Western Pacific Areas receive an administrative allocation.

6. *Reserve.* Requests for National Office reserve funds will be considered on a first-come, first-served basis and should be submitted via telefax by the State Director to the National Office (SFHPD).

7. *Pooling of funds.* No mid-year pooling is anticipated. Year-end pooling is tentatively scheduled for close of business August 14, 1992.

8. *Availability of the allocation.* 100 percent of each State's allocation will be available, subject to quarterly limitations at the National level and year-end pooling.

9. *Suballocation by the State Director.* The State Director will retain these funds at the State Office level. Funds will not be suballocated to District or County Offices. Each State Director may set aside up to 50 percent of the State's allocation for specific lender requests. Funds which are set aside will be made available to lenders as follows:

a. The lender must make a request to the State Director for a block of funds.

b. The lender must demonstrate the ability to correctly process the requested volume of loan funds before July 1, 1992.

c. If the lender is not showing satisfactory progress in use of its set aside funds, the State Director may recapture these funds prior to July 1, 1992, by giving the lender 30-days advance notice.

d. Funds will be set aside on a first-come, first-served basis. No lender may receive more than 50 percent of the total funds set aside in the State.

B. *Section 502 Subsidized Rural Housing Loans.* See § 1940.565 of subpart L of part 1940 of this chapter.

1. *Amount available for allocation.*

Total Available	$1,295,000,000
Less General Reserve	67,469,000
Less Designated Reserves	124,750,000
Less Administrative Allocation	7,778,000
Basic Formula Amount	$1,095,003,000

2. *Basic formula criteria, data source, and weight.* See § 1940.565(b) of subpart L of part 1940 of this chapter. Data derived from the 1980 U.S. Census was provided to each State by National Office unnumbered memorandum dated November 2, 1983 (available in any FmHA State Office). This data, supplemented by the list by county of rural population (places under 2,500 population) provided in unnumbered memorandum dated August 6, 1985 (available in any FmHA State Office), must be used to suballocate funds to District Offices.

3. *Transition formula.* Not applicable for use this fiscal year by the National Office or by State Offices.

4. *Base allocation.* Not applicable for use this fiscal year by the National Office or by State Offices.

5. *Administrative Allocation.* The regions of the Virgin Islands and the Western Pacific Areas receives an administrative allocation.

6. *Reserve*—a. *State Office Reserve.* State Directors will maintain sufficient funds in the State Office reserve only to fund loan types described in § 1944.26(b)(2) (i) and (ii) of subpart A of part 1944 of this chapter. The State Director will maintain records on how State Office reserves were utilized, including a justification for each hardship case disbursement. Each State Director must establish management controls to make certain that loans are not processed to the point of approval unless allocated funds are available or prior approval has been received for sufficient National Office reserve funds to obligate the loans.

b. *National Office Reserve*—(i) *General Reserve.* Use of these reserve funds will be limited to:

(A) Providing funds to States to handle unforeseen circumstances which cannot be funded with the State's available allocation. Reserve requests should be submitted via telefax by State Directors to the National Office (SFHPD), on a case by case basis, level, and advance from the formula allocation for the next quarter may also be requested. Based upon need and projected availability of unobligated funds, the Administrator reserves the right to permit expanded access to funds from the National Office without notice in the **Federal Register**.

(B) Matching funds for States with approved mutual self-help housing grants. Subject to the availability of general reserve funds, matching funds may be requested on the basis of two dollars of National Office reserve funds for each dollar of State allocated section 502 RH funds used to assist participating self-help families. Funds are to be requested for the participating families at the time of loan approval. Requests for these funds should be submitted in writing by State Directors to the National Office (SFHPD) and include the name and case number of the applicants, total loan amount(s), amount of State contribution, amount requested from the National Office reserve, and applicant income category (very low-or low-income).

(ii) *Designated reserves*—(A) *Section 503 Nonsubsidized Funds (loan making).* See paragraph IC5.

(B) *Section 502 Nonsubsidized Funds (loan servicing).* See paragraph ID6.

(C) *RHTSA.* $64,750,000 (five percent) of the FY 92 section 503 appropriation have been set aside for RHTSA.

(D) *Demonstration Housing Program.* $10 million of section 503 RH Funds have been set aside for the demonstration housing program and will be designated on a project-by-project basis. Designated funds will be allotted 60 percent for low-income and 40 percent for very low-income. All funds are subject to the pooling requirements of subpart L of part 1940 of this chapter.

7. *Pooling of funds*—(a) *State Office pooling.* If pooling is conducted within a State, it must not take place more than 15 calendar days prior to the end of the first, second and/or third quarter. If fourth quarter pooling is conducted within a State, it must not take place more than 15 calendar days prior to the National Office year-end pooling date. These pooled funds may be redistributed by the State Director provided the State Director has determined that the pooled funds could not be used in the District/County Offices receiving the funds allocated in accordance with this subpart. This determination will: (1) Be in writing, (2) be filed in the State Office and (3) include a statement that all appropriate efforts were made to use the funds as allocated.

(b) *National Office pooling.* No mid-year pooling is anticipated. Year-end pooling is tentatively scheduled for

close of business August 14, 1992. Pooled funds will be placed in the National Office reserve and will be made available administratively.

8. *Availability of the allocation.* The Housing Act of 1949, as amended, provides that no less than 40 percent of funds be made available for very low-income section 502 loan applicants. Funds will be distributed by quarters as follows: 30 percent through the first quarter, 65 percent through the second quarter, 95 percent through the third quarter, and 100 percent in the fourth quarter until the National Office year-end pooling date.

9. *Suballocation by the State Director.* The State Director must suballocate to each District Office using the methodology and formulas required by this subpart. The District Director will make funds available on a first-come, first-served basis to all County Offices in the District. Funds will *not* be suballocated to County Offices without the prior written approval of the Administrator. No County Office will have its access to funds restricted without the prior written approval of the Administrator.

C. *Section 504 Housing Repair loans.* See § 1940.566 of subpart L of part 1940 of this chapter.

1. *Amount available for allocations.*

Total Available	$11,330,000
Less General Reserve	890,000
Less Designated RHTSA Reserve	567,000
Less Administrative Allocation	779,000
Basic Formula Amount	$9,094,000

2. *Basic formula criteria, data source and weight.* Data derived from the 1980 U.S. Census was provided to each State by National Office unnumbered memorandum dated November 2, 1983 (available in any FmHA State Office). This data must be used if funds are suballocated to District Offices.

3. *Transition formula.* Not applicable for use this fiscal year by the National Office or by State Offices.

4. *Base allocation.* Not applicable for use this fiscal year by the National Office or by State Offices.

5. *Administration allocation.* The regions of the Virgin Islands and the Western Pacific Areas receive an administrative allocation.

6. *Reserve.* Requests for National Office reserve funds will be considered on a first-come, first-served basis and should be submitted in writing by the State Director to the National Office (SFHPD).

7. *Pooling of funds.* No mid-year pooling is anticipated. Year-end pooling is tentatively scheduled for close of business August 14, 1992. The Administrator may also pool part of a State's allocation at anytime with the concurrence of the affected State Director. Pooled funds will be placed in the National Office reserve and will be made available administratively.

8. *Availability of the allocation.* Funds will be distributed by quarters as follows: 30 percent through the first quarter, 60 percent through the second quarter, 90 percent through the third quarter, and 100 percent in the fourth quarter until the National Office year-end pooling date. States should limit requests for funds from the National Office reserve to no more than an amount equal to the next quarter's distribution.

D. *Section 504 Housing Repair Grants.* See § 1940.567 of subpart L of part 1940 of this chapter.

1. *Amount available for allocations.*

Total Available	$12,500,000
Less General Reserve	875,000
Less Designated RHTSA Reserve	625,000
Less Administrative Allocation	314,000
Basic Formula Amount	$10,686,000

2. *Basic formula criteria, data source and weight.* Data derived from the 1980 U.S. Census was provided to each State by National Office unnumbered memorandum dated November 2, 1983 (available in any FmHA State Office). This data must be used if funds are suballocated to District Offices.

3. *Transition formula.* Not applicable for use this fiscal year by the National Office or by State Offices.

4. *Base allocation.* Not applicable for use this fiscal year by the National Office or by State Offices.

5. *Administrative allocation.* The regions of the Virgin Islands and the Western Pacific Areas receive an administrative allocation.

6. *Reserve.* a. The National Office reserve is to assist State Directors with hardship situations (community water supply assessment, natural disaster, etc.) or individual cases. If State Directors have a situation or an individual case believed to be a hardship, they may submit it to the National Office (SFHPD, Special Programs Branch) for consideration. Submittals must be limited to current quarter needs and include a description of the hardship, amount of funds needed and the impact if delayed until next quarter. If the hardship is an individual case, the name and case number must also be included.

b. A hardship is defined as a situation or an individual case with a significant priority in funding, ahead of other requests, due to the health, safety, and/or physical needs of the applicant or community. The priority may be related to sanitation hazards, or impending climatic hazards which are above average and should receive priority for funds before others.

7. *Pooling of funds.* No mid-year pooling is anticipated. Year-end pooling is tentatively scheduled for close of business August 14, 1992. The Administrator may also pool part of a State's allocation at anytime with the concurrence of the affected State Director. Pooled funds will be placed in the National Office reserve and will be made available administratively.

8. *Availability of the allocation.* Funds will be distributed by quarters as follows: 30 percent through the first quarter, 60 percent through the second quarter, 90 percent through the third quarter, and 100 percent in the fourth quarter until the National Office year-end pooling date. States should limit requests for funds from the National Office reserve to no more than an amount equal to one-half of the next quarter's distribution.

III. Exception Authority

The Administrator, or his/her designee, may, in individual cases, make an exception to any requirements herein which are not inconsistent with the authorizing statute, if he/she finds that application of such requirement would adversely affect the interest of the Government or adversely affect the intent of the authorizing statute and/or SFH program or result in an undue hardship by applying the requirement. The Administrator, or his/her designee, may exercise this authority upon the request of the State Director, Assistant Administrator for Housing, or Director of the Single Family Housing Processing Division. The request must be supported by information that demonstrates the adverse impact or effect on the program. The Administrator, or his/her designee, also reserves the right to change pooling dates, establish/change minimum and maximum fund usage from set asides and/or the reserve, or restrict participation in set asides and/or reserves.

RURAL RENTAL HOUSING SECTION 515

State	Formula factor	Formula alloc	Base/ Admin	Total FY 92	Less nonprof-it set aside	Net RRH alloc	Rental formula alloc	Assistance units— Base/ admin	Assistance units— Total FY 92
Alabama	0.0327874	$15,781	0	$15,781	$1,420	$14,361	328	0	328
Alaska	0.0043499	2,094	0	2,094	188	1,906	44	0	44
Arizona	0.0122772	5,909	0	5,909	532	5,377	123	0	123
Arkansas	0.0245290	11,806	0	11,806	1,063	10,743	246	0	246
California	0.0354499	17,062	0	17,062	1,536	15,526	355	0	355
Nevada	0.0017715	853	897	1,750	158	1,592	18	17	35
Colorado	0.0081046	3,901	0	3,901	351	3,550	81	0	81
Delaware	0.0023022	1,108	642	1,750	158	1,592	23	12	35
Maryland	0.0101880	4,904	0	4,904	441	4,463	102	0	102
Florida	0.0261663	12,594	0	12,594	1,133	11,461	262	0	262
Georgia	0.0408019	19,638	0	19,638	1,767	17,871	408	0	408
Hawaii	0.0037272	1,794	0	1,794	161	1,633	37	0	37
W. Pacific Areas	0.0000000	0	1,750	1,750	158	1,592	0	35	35
Idaho	0.0069537	3,347	0	3,347	301	3,046	70	0	70
Illinois	0.0257623	12,400	0	12,400	1,116	11,284	258	0	258
Indiana	0.0236177	11,367	0	11,367	1,023	10,344	236	0	236
Iowa	0.0157202	7,566	0	7,566	681	6,885	157	0	157
Kansas	0.0117522	5,656	0	5,656	509	5,147	118	0	118
Kentucky	0.0394140	18,970	0	18,970	1,707	17,263	395	0	395
Louisiana	0.0295365	14,216	0	14,216	1,279	12,937	296	0	296
Maine	0.0101246	4,873	0	4,873	439	4,434	101	0	101
Massachusetts	0.0093225	4,487	0	4,487	404	4,083	93	0	93
Connecticut	0.0050165	2,414	0	2,414	217	2,197	50	0	50
Rhode Island	0.0011702	563	1,187	1,750	158	1,592	12	23	35
Michigan	0.0301872	14,529	0	14,529	1,308	13,221	302	0	302
Minnesota	0.0194218	9,348	0	9,348	841	8,507	194	0	194
Mississippi	0.0311598	14,998	0	14,998	1,350	13,648	312	0	312
Missouri	0.0255082	12,277	0	12,277	1,105	11,172	255	0	255
Montana	0.0055681	2,680	0	2,680	241	2,439	56	0	56
Nebraska	0.0077613	3,736	0	3,736	336	3,400	78	0	78
New Jersey	0.0071748	3,453	0	3,453	311	3,142	72	0	72
New Mexico	0.0109067	5,250	0	5,250	473	4,777	109	0	109
New York	0.0289916	13,954	0	13,954	1,256	12,698	290	0	290
North Carolina	0.0508284	24,464	0	24,464	2,202	22,262	509	0	509
North Dakota	0.0049179	2,367	0	2,367	213	2,154	49	0	49
Ohio	0.0362698	17,457	0	17,457	1,571	15,886	363	0	363
Oklahoma	0.0185916	8,948	0	8,948	805	8,143	186	0	186
Oregon	0.0126876	6,107	0	6,107	550	5,557	127	0	127
Pennsylvania	0.0403055	19,400	0	19,400	1,746	17,654	403	0	403
Puerto Rico	0.0568971	27,385	0	27,385	2,465	24,920	570	0	570
South Carolina	0.0278229	13,391	0	13,391	1,205	12,186	279	0	279
South Dakota	0.0067145	3,232	0	3,232	291	2,941	67	0	67
Tennessee	0.0342906	16,504	0	16,504	1,485	15,019	343	0	343
Texas	0.0589722	28,384	0	28,384	2,555	25,829	590	0	590
Utah	0.0040595	1,954	0	1,954	176	1,778	41	0	41
Vermont	0.0043676	2,102	0	2,102	189	1,913	44	0	44
New Hampshire	0.0050354	2,424	0	2,424	218	2,206	50	0	50
Virgin Islands	0.0000000	0	1,750	1,750	158	1,592	0	35	35
Virginia	0.0315604	15,190	0	15,190	1,367	13,823	316	0	316
Washington	0.0146400	7,046	0	7,046	634	6,412	147	0	147
West Virginia	0.0211270	10,169	0	10,169	915	9,254	212	0	212
Wisconsin	0.0203333	9,787	0	9,787	881	8,906	204	0	204
Wyoming	0.0030537	1,470	280	1,750	158	1,592	31	4	35
State Totals	1.0000000	$481,309	$6,506	$487,815	$43,905	$443,910	10,012	126	10,138
N/O Reserves				86,085					2,126
FLH RA Units									499
Totals				$573,900					12,763

MULTI-FAMILY HOUSING SECTION 533 HPG ALLOCATIONS

[Thousands]

State	Basic formula factor	Formula alloc	Base alloc	Total FY 92 alloc
Alabama	0.0327874	$511	$100	$611
Alaska	0.0043499	68	100	168
Arizona	0.0122772	192	100	292
Arkansas	0.0245290	383	100	483
California	0.0354499	553	100	653
Nevada	0.0017715	28	100	128
Colorado	0.0081046	126	100	226
Delaware	0.0023022	36	100	136
Maryland	0.0101880	159	100	259

MULTI-FAMILY HOUSING SECTION 533 HPG ALLOCATIONS—Continued

[Thousands]

State	Basic formula factor	Formula alloc	Base alloc	Total FY 92 alloc
Florida	0.0261663	408	100	508
Georgia	0.0408019	637	100	737
Hawaii	0.0037272	58	100	158
W. Pac. Ter.	N/A	N/A	N/A	0
Idaho	0.0069537	108	100	208
Illinois	0.0257623	402	100	502
Indiana	0.0236177	368	100	468
Iowa	0.0157202	245	100	345
Kansas	0.0117522	183	100	283
kentucky	0.0394140	615	100	715
Louisiana	0.0295365	461	100	561
Maine	0.0101246	158	100	258
Massachusetts	0.0093225	145	100	245
Connecticut	0.0050165	78	100	178
Rhode Island	0.0011702	18	100	118
Michigan	0.0301872	471	100	571
Minnesota	0.0194218	303	100	403
Mississippi	0.0311598	486	100	586
Missouri	0.0255082	398	100	498
Montana	0.0055681	87	100	187
Nebraska	0.0077613	121	100	221
New Jersey	0.0071748	112	100	212
New Mexico	0.0109067	170	100	270
New York	0.0289916	452	100	552
North Carolina	0.0508284	793	100	893
North Dakota	0.0049179	77	100	177
Ohio	0.0362698	566	100	666
Oklahoma	0.0185916	290	100	390
Oregon	0.0126876	198	100	298
Pennsylvania	0.0403055	629	100	729
Puerto Rico	0.0568971	888	100	988
South Carolina	0.0278229	434	100	534
South Dakota	0.0067145	105	100	205
Tennessee	0.0342906	535	100	635
Texas	0.0589722	920	100	1,020
Utah	0.0040595	63	100	163
Vermont	0.0043676	68	100	168
New Hampshire	0.0050354	79	100	179
Virgin Islands	N/A	N/A	N/A	0
Virginia	0.0315604	492	100	592
Washington	0.0146400	228	100	328
West Virginia	0.0211270	330	100	430
Wisconsin	0.0203333	317	100	417
Wyoming	0.0030537	48	100	148
State Totals	1.0000000	$15,600	$5,100	$20,700
N/O Reserve				2,300
Total				$23,000

MULTI-FAMILY HOUSING SECTION 521

[Rental Assistance 5-Year Unit Values]

State	Family value servicing	Elderly value servicing	Labor housing servicing	New const weighted RA value
Alabama	11,018	11,491	11,018	11,948
Alaska	16,223	16,223	16,223	16,088
Arizona	14,128	11,559	14,128	12,653
Arkansas	10,680	9,261	10,680	10,451
California	9,125	8,720	9,125	9,161
Nevada	10,815	13,114	10,815	11,853
Colorado	13,249	11,288	13,249	12,792
Delaware	14,128	14,128	14,128	14,330
Maryland	12,167	15,615	12,167	13,595
Florida	11,018	10,207	11,018	10,140
Georgia	8,449	8,990	8,449	8,993
Hawaii	11,076	10,771	11,076	10,771
Western Pacific Areas	11,076	10,771	11,076	10,898
Idaho	9,937	10,410	9,937	10,562
Illinois	10,410	10,004	10,410	9,713
Indiana	9,396	8,044	9,396	8,205
Iowa	10,477	7,976	10,477	9,549
Kansas	10,004	8,585	10,004	8,374
Kentucky	11,762	10,613	11,762	11,133

MULTI-FAMILY HOUSING SECTION 521—Continued

[Rental Assistance 5-Year Unit Values]

State	Family value servicing	Elderly value servicing	Labor housing servicing	New const weighted RA value
Louisiana	12,235	12,370	12,235	12,956
Maine	16,291	15,479	16,291	15,871
Massachusetts	10,410	14,803	10,410	12,571
Connecuticut	7,030	7,030	7,030	8,848
Rhode Island	12,843	12,843	12,843	12,843
Michigan	9,666	7,996	9,666	8,848
Minnesota	9,734	8,585	9,734	9,401
Mississippi	12,302	11,897	12,302	12,130
Missouri	8,247	6,624	8,247	7,909
Montana	10,951	7,165	10,951	7,571
Nebraska	7,774	7,300	7,774	7,013
New Jersey	16,358	16,020	16,358	16,353
New Mexico	15,953	10,275	15,953	11,762
New York	11,829	10,342	11,829	12,130
North Carolina	10,410	12,843	10,410	12,260
North Dakota	9,801	9,531	9,801	10,072
Ohio	10,477	8,111	10,477	9,182
Oklahoma	9,734	9,734	9,734	9,469
Oregon	11,897	9,599	11,897	9,988
Pennsylvania	9,463	12,573	9,463	12,244
Puerto Rico	7,233	7,233	7,233	7,233
South Carolina	10,477	11,897	10,477	11,551
South Dakota	11,018	10,139	11,018	11,340
Tennessee	10,139	9,869	10,139	9,606
Texas	10,815	9,531	10,815	10,132
Utah	15,547	13,181	15,547	13,181
Vermont	13,519	16,696	13,519	15,900
New Hampshire	13,249	12,978	13,249	13,459
Virgin Islands	11,076	10,771	11,076	10,849
Virginia	10,680	11,018	10,680	11,000
Washington	10,748	8,517	10,748	9,747
West Virginia	11,694	8,990	11,694	10,468
Wisconsin	8,990	7,030	8,990	8,553
Wyoming	12,100	8,652	12,100	10,241
National Average	11,076	10,771	11,076	10,450

SECTION 502 GUARANTEED LOANS (NONSUBSIDIZED)

States	State basic formula factor	State basic formula allocation	Base/ administrative allocation	Total FY 1991 allocation
Alabama	0.0264299	8,198	0	8,198
Alaska	0.0043973	1,364	0	1,364
Arizona	0.0109329	3,391	0	3,391
Arkansas	0.0207398	6,433	0	6,433
California	0.0446289	13,843	0	13,843
Nevada	0.0024469	759	241	1,000
Colorado	0.0102285	3,173	0	3,173
Delaware	0.0026144	811	189	1,000
Maryland	0.0122623	3,804	0	3,804
Florida	0.0283472	8,793	0	8,793
Georgia	0.0371454	11,522	0	11,522
Hawaii	0.0046773	1,451	0	1,451
W. Pacific Areas	N/A	N/A	1,000	1,000
Idaho	0.0071037	2,203	0	2,203
Illinois	0.0312057	9,679	0	9,679
Indiana	0.0263101	8,161	0	8,161
Iowa	0.0173073	5,368	0	5,368
Kansas	0.0129495	4,017	0	4,017
Kentucky	0.0316108	9,805	0	9,805
Louisiana	0.0236853	7,347	0	7,347
Maine	0.0114962	3,566	0	3,566
Massachusetts	0.0149398	4,634	0	4,634
Connecticut	0.0084190	2,611	0	2,611
Rhode Island	0.0018832	584	416	1,000
Michigan	0.0356793	11,067	0	11,067
Minnesota	0.0198629	6,161	0	6,161
Mississippi	0.0235997	7,320	0	7,320
Missouri	0.0249668	7,744	0	7,744
Montana	0.0058327	1,809	0	1,809
Nebraska	0.0077413	2,401	0	2,401
New Jersey	0.0112512	3,490	0	3,490
New Mexico	0.0088454	2,744	0	2,744

SECTION 502 GUARANTEED LOANS (NONSUBSIDIZED)—Continued

States	State basic formula factor	State basic formula allocation	Base/ administrative allocation	Total FY 1991 allocation
New York	0.0394222	12,228	0	12,228
North Carolina	0.0490401	15,211	0	15,211
North Dakota	0.0046627	1,446	0	1,446
Ohio	0.0419458	13,011	0	13,011
Oklahoma	0.0165794	5,143	0	5,143
Oregon	0.0162509	5,041	0	5,041
Pennsylvania	0.0510888	15,847	0	15,847
Puerto Rico	0.0259112	8,037	0	8,037
South Carolina	0.0250675	7,775	0	7,775
South Dakota	0.0062167	1,928	0	1,928
Tennessee	0.0293258	9,096	0	9,096
Texas	0.0518594	16,086	0	16,086
Utah	0.0040138	1,245	0	1,245
Vermont	0.0058837	1,825	0	1,825
New Hampshire	0.0073375	2,276	0	2,276
Virgin Islands	N/A	N/A	1,000	1,000
Virginia	0.0304690	9,451	0	9,451
Washington	0.0185263	5,746	0	5,746
West Virginia	0.0191611	5,943	0	5,943
Wisconsin	0.0239392	7,425	0	7,425
Wyoming	0.0037582	1,166	0	1,166
State Totals	1.0000000	310,179	2,846	313,025
General Reserve				16,475
Designated Reserve				0
Total				329,500

SECTION 502 SUBSIDIZED RURAL HOUSING LOANS

States	State basic formula factor	State basic formula allocation	Administrative allocation	Total FY 1992 allocation
Alabama	0.0280625	30,729	N/A	30,729
Alaska	0.0038580	4,225	N/A	4,225
Arizona	0.0105376	11,539	N/A	11,539
Arkansas	0.0209475	22,938	N/A	22,938
California	0.0382879	41,925	N/A	41,925
Nevada	0.0021415	2,345	N/A	2,345
Colorado	0.0091839	10,056	N/A	10,056
Delaware	0.0025606	2,804	N/A	2,804
Maryland	0.0119855	13,124	N/A	13,124
Florida	0.0266494	29,181	N/A	29,181
Georgia	0.0361656	39,601	N/A	39,601
Hawaii	0.0034996	3,832	N/A	3,832
W. Pacific Areas	N/A	N/A	4,600	4,600
Idaho	0.0071175	7,794	N/A	7,794
Illinois	0.0312531	34,222	N/A	34,222
Indiana	0.0289595	31,711	N/A	31,711
Iowa	0.0186702	20,444	N/A	20,444
Kansas	0.0139742	15,302	N/A	15,302
Kentucky	0.0327309	35,840	N/A	35,840
Louisiana	0.0244603	26,784	N/A	26,784
Maine	0.0105963	11,603	N/A	11,603
Massachusetts	0.0129624	14,194	N/A	14,194
Connecticut	0.0077726	8,511	N/A	8,511
Rhode Island	0.0016268	1,781	N/A	1,781
Michigan	0.0366125	40,091	N/A	40,091
Minnesota	0.0213380	23,365	N/A	23,365
Mississippi	0.0243847	26,701	N/A	26,701
Missouri	0.0261878	28,676	N/A	28,676
Montana	0.0060465	6,621	N/A	6,621
Nebraska	0.0089233	9,771	N/A	9,771
New Jersey	0.0103001	11,279	N/A	11,279
New Mexico	0.0087038	9,531	N/A	9,531
New York	0.0366806	40,165	N/A	40,165
North Carolina	0.0492275	53,904	N/A	53,904
North Dakota	0.0050541	5,534	N/A	5,534
Ohio	0.0426761	46,730	N/A	46,730
Oklahoma	0.0179142	19,616	N/A	19,616
Oregon	0.0146749	16,069	N/A	16,069
Pennsylvania	0.0508513	55,682	N/A	55,682
Puerto Rico	0.0264217	28,932	N/A	28,932
South Carolina	0.0249570	27,328	N/A	27,328
South Dakota	0.0061927	6,781	N/A	6,781
Tennessee	0.0309862	33,930	N/A	33,930

SECTION 502 SUBSIDIZED RURAL HOUSING LOANS—Continued

States	State basic formula factor	State basic formula allocation	Administrative allocation	Total FY 1992 allocation
Texas	0.0550670	60,300	N/A	60,300
Utah	0.0040623	4,448	N/A	4,448
Vermont	0.0050786	5,561	N/A	5,561
New Hampshire	0.0064943	7,111	N/A	7,111
Virgin Islands	N/A	N/A	3,178	3,178
Virginia	0.0312105	34,176	N/A	34,176
Washington	0.0172367	18,874	N/A	18,874
West Virginia	0.0201561	22,071	N/A	22,071
Wisconsin	0.0249425	27,312	N/A	27,312
Wyoming	0.0036156	3,959	N/A	3,959
State Totals	1.0000000	1,095,003	7,778	1,102,781
General Reserve				67,469
Designated Reserves				124,750
Total				1,295,000

SECTION 502 SUBSIDIZED RURAL HOUSING LOANS

States	Total FY 1991 allocation	Very low-income allocation 40 percent	Low-income allocation 60 percent
Alabama	30,729	12,292	18,437
Alaska	4,225	1,690	2,535
Arizona	11,539	4,616	6,923
Arkansas	22,938	9,176	13,762
California	41,925	16,770	25,155
Nevada	2,345	938	1,407
Colorado	10,056	4,023	6,033
Delaware	2,804	1,122	1,682
Maryland	13,124	5,250	7,874
Florida	29,181	11,673	17,508
Georgia	39,601	15,841	23,760
Hawaii	3,832	1,533	2,299
W. Pacific Areas	4,600	1,840	2,760
Idaho	7,794	3,118	4,676
Illinois	34,222	13,689	20,533
Indiana	31,711	12,685	19,026
Iowa	20,444	8,178	12,266
Kansas	15,302	6,121	9,181
Kentucky	35,840	14,336	21,504
Louisiana	26,784	10,714	16,070
Maine	11,603	4,642	6,961
Massachusetts	14,194	5,678	8,516
Connecticut	8,511	3,405	5,106
Rhode Island	1,781	713	1,068
Michigan	40,091	16,037	24,054
Minnesota	23,365	9,346	14,019
Mississippi	26,701	10,681	16,020
Missouri	28,676	11,471	17,205
Montana	6,621	2,649	3,972
Nebraska	9,771	3,909	5,862
New Jersey	11,279	4,512	6,767
New Mexico	9,531	3,813	5,718
New York	40,165	16,066	24,099
North Carolina	53,904	21,562	32,342
North Dakota	5,534	2,214	3,320
Ohio	46,730	18,692	28,038
Oklahoma	19,616	7,847	11,769
Oregon	16,069	6,428	9,641
Pennsylvania	55,682	22,273	33,409
Puerto Rico	28,932	11,573	17,359
South Carolina	27,328	10,932	16,396
South Dakota	6,781	2,713	4,068
Tennessee	33,930	13,572	20,358
Texas	60,300	24,120	36,180
Utah	4,448	1,780	2,668
Vermont	5,561	2,225	3,336
New Hampshire	7,111	2,845	4,266
Virgin Islands	3,178	1,272	1,906
Virginia	34,176	13,671	20,505
Washington	18,874	7,550	11,324
West Virginia	22,071	8,829	13,242
Wisconsin	27,312	10,925	16,387
Wyoming	3,959	1,584	2,375

SECTION 502 SUBSIDIZED RURAL HOUSING LOANS—Continued

States	Total FY 1991 allocation	Very low-income allocation 40 percent	Low-income allocation 60 percent
State Totals	1,102,781	441,134	661,647
General Reserve	67,469	29,966	40,503
Designed Reserves	124,750	49,900	74,850
Total	1,295,000	518,000	777,000

SECTION 504 RURAL HOUSING LOANS

States	State basic formula factor	State basic formula allocation	Administrative allocation	Total FY 1992 allocation
Alabama	0.0320885	292	N/A	292
Alaska	0.0054368	49	N/A	49
Arizona	0.0128086	116	N/A	116
Arkansas	0.0233933	213	N/A	213
California	0.0382217	348	N/A	348
Nevada	0.0020080	18	N/A	18
Colorado	0.0082739	75	N/A	75
Delaware	0.0023322	21	N/A	21
Maryland	0.0110190	100	N/A	100
Florida	0.0255397	232	N/A	232
Georgia	0.0398597	362	N/A	362
Hawaii	0.0043287	39	N/A	39
W. Pacific Areas	N/A	N/A	754	754
Idaho	0.0065869	60	N/A	60
Illinois	0.0278284	253	N/A	253
Indiana	0.0247710	225	N/A	225
Iowa	0.0160166	146	N/A	146
Kansas	0.0121380	110	N/A	110
Kentucky	0.0386225	351	N/A	351
Louisiana	0.0287658	262	N/A	262
Maine	0.0102204	93	N/A	93
Massachusetts	0.0099047	90	N/A	90
Connecticut	0.0052081	47	N/A	47
Rhode Island	0.0012330	11	N/A	11
Michigan	0.0312370	284	N/A	284
Minnesota	0.0199865	182	N/A	182
Mississippi	0.0293627	267	N/A	267
Missouri	0.0253770	231	N/A	231
Montana	0.0057082	52	N/A	52
Nebraska	0.0076341	69	N/A	69
New Jersey	0.0073155	67	N/A	67
New Mexico	0.0108461	99	N/A	99
New York	0.0291709	265	N/A	265
North Carolina	0.0510866	465	N/A	465
North Dakota	0.0046131	42	N/A	42
Ohio	0.0380786	346	N/A	346
Oklahoma	0.0186377	169	N/A	169
Oregon	0.0133992	122	N/A	122
Pennsylvania	0.0426964	388	N/A	388
Puerto Rico	0.0391381	356	N/A	356
South Carolina	0.0275555	251	N/A	251
South Dakota	0.0060846	55	N/A	55
Tennessee	0.0337289	307	N/A	307
Texas	0.0610594	557	N/A	557
Utah	0.0039662	36	N/A	36
Vermont	0.0042757	39	N/A	39
New Hampshire	0.0053276	48	N/A	48
Virgin Islands	N/A	N/A	25	25
Virginia	0.0341693	311	N/A	311
Washington	0.0157597	143	N/A	143
West Virginia	0.0218476	199	N/A	199
Wisconsin	0.0218587	199	N/A	199
Wyoming	0.0034736	32	N/A	32
State Totals	1.0000000	9,094	779	9,873
General Reserve				890
Designated Reserve				567
Total				11,330

SECTION 504 RURAL HOUSING GRANTS

States	State basic formula factor	State basic formula allocation	Administrative allocation	Total FY 1992 allocation
Alabama	0.0297816	318	N/A	318
Alaska	0.0038921	42	N/A	42
Arizona	0.0115529	123	N/A	123
Arkansas	0.0232959	249	N/A	249
California	0.0377267	403	N/A	403
Nevada	0.0018926	20	N/A	20
Colorado	0.0080619	86	N/A	86
Delaware	0.0023480	25	N/A	25
Maryland	0.0107800	115	N/A	115
Florida	0.0291888	312	N/A	312
Georgia	0.0366853	392	N/A	392
Hawaii	0.0036226	39	N/A	39
W. Pacific Areas	N/A	N/A	300	300
Idaho	0.0064993	69	N/A	69
Illinois	0.0312183	334	N/A	334
Indiana	0.0260900	279	N/A	279
Iowa	0.0192762	206	N/A	206
Kansas	0.0147368	157	N/A	157
Kentucky	0.0345704	369	N/A	369
Louisiana	0.0259028	277	N/A	277
Maine	0.0104030	111	N/A	111
Massachusetts	0.0119195	127	N/A	127
Connecticut	0.0063162	67	N/A	67
Rhode Island	0.0014107	15	N/A	15
Michigan	0.0327229	350	N/A	350
Minnesota	0.0220310	235	N/A	235
Mississippi	0.0265367	284	N/A	284
Missouri	0.0276682	296	N/A	296
Montana	0.0057317	61	N/A	61
Nebraska	0.0093409	100	N/A	100
New Jersey	0.0091097	97	N/A	97
New Mexico	0.0090645	97	N/A	97
New York	0.0330185	353	N/A	353
North Carolina	0.0479670	513	N/A	513
North Dakota	0.0051797	55	N/A	55
Ohio	0.0390236	417	N/A	417
Oklahoma	0.0195661	209	N/A	209
Oregon	0.0141739	151	N/A	151
Pennsylvania	0.0481306	514	N/A	514
Puerto Rico	0.0315208	337	N/A	337
South Carolina	0.0246543	263	N/A	263
South Dakota	0.0065659	70	N/A	70
Tennessee	0.0319241	341	N/A	341
Texas	0.0597188	641	N/A	641
Utah	0.0037456	40	N/A	40
Vermont	0.0046306	49	N/A	49
New Hampshire	0.0057672	62	N/A	62
Virgin Islands	N/A	N/A	14	14
Virginia	00311590	333	N/A	333
Washington	0.0158753	170	N/A	170
West Virginia	0.0203827	218	N/A	218
Wisconsin	0.0243713	260	N/A	260
Wyoming	0.0032478	35	N/A	35
State Totals	1.0000000	10,686	314	11,000
General Reserve				875
Designated Reserve				625
Total				12,500

Dated: November 8, 1991.

La Verne Ausman,

Administrator, Farmers Home Administration.

[FR Doc. 91-27789 Filed 11-19-91; 8:45 am]

BILLING CODE 3410-07-M

Packers and Stockyards Administration

Posting of Stockyards

Pursuant to the authority provided under section 302 of the Packers and Stockyards Act (7 U.S.C. 202), it was ascertained that the livestock markets named below were stockyards as defined by section 302(a). Notice was given to the stockyard owners and to the public as required by section 302(b), by posting notices at the stockyards on the dates specified below, that the stockyards were subject to the provisions of the Packers and Stockyards Act, 1921, as amended (7 U.S.C. 181 *et seq.*).

Facility No., name, and location of stockyard	Date of posting
AL-180 Marion Stockyard, Marion, Alabama.	April 9, 1990.
AL-181 Rusty Guy Auction Company, Dothan, Alabama.	March 9, 1990.

Facility No., name, and location of stockyard	Date of posting
AL-182 Escambia County Cooperative, Inc., Brewton, Alabama.	July 27, 1990.
AL-183 Hazel Green Horse Auction, Hazel Green, Alabama.	January 25, 1991.
AL-184 Enterprise Livestock, Enterprise, Alabama.	April 18, 1991.
CO-154 Horse Creek Sale Company, Henderson, Colorado.	October 25, 1991.
CT-104 M & M Sales, Ledyard, Connecticut.	September 19, 1991.
FL-132 Barbee's County Auction, Masaryktown, Florida.	April 4, 1991.
GA-205 Crystal Farms Livestock Auction, Ranger, Georgia.	March 10, 1990.
GA-206 Georgia Mountain Livestock, Cleveland, Georgia.	March 10, 1990.
GA-207 K & K Hair and Feather Auction, Swainsboro, Georgia.	August 8, 1990.
GA-208 Hugh Watson Stockyard, Gainesville, Georgia.	January 29, 1991.
GA-209 Cordele Livestock Market, Inc., Cordele, Georgia.	January 25, 1991.
GA-210 Sandy Point Horse & Tack Auction, Lizella, Georgia.	July 26, 1991.
GA-211 Thomson Stock & Auction Barn, Inc., Thomson, Georgia.	September 10, 1991.
MO-268 Bates Co. Sales, Inc., Rich Hill, Missouri.	May 6, 1991.
MO-269 Laclede County Regional L/S Market, Inc., Lebanon, Missouri.	July 11, 1991.
MO-270 Norwood Public Auction Yards, Inc., Norwood, Missouri.	September 20, 1991.
MO-271 Lockwood Livestock Auction, Inc., Lockwood, Missouri.	August 29, 1991.
SC-149 Southwind Horse Auction, Westminister, South Carolina.	April 1, 1991.
TX-339 Central Texas Auction, Inc., Jarrell, Texas.	March 6, 1990.

Done at Washington, DC this 14th day of November.

Harold W. Davis,

Director, Livestock Marketing Division, Packers and Stockyards Administration.

[FR Doc 91-27835 Filed 11-19-91; 8:45 am]

BILLING CODE 3410-20-M

COMMISSION ON CIVIL RIGHTS

Hawaii Advisory Committee; Agenda and Notice of Public Meeting

Notice is hereby given, pursuant to the provisions of the Rules and Regulations of the U.S. Commission on Civil Rights, that the Hawaii Advisory Committee to the Commission will convene at 9 a.m. and adjourn at 12 noon on Thursday, December 12, 1991, at the Old Archives Building (Lecture Room), Iolani Palace Grounds, 364 S. King Street, Honolulu, Hawaii. The purpose of the meeting is to review current civil rights developments in the State, and plan future program activities.

At 10 a.m., the Advisory Committee will release a report, A Broken Trust: The Hawaiian Homelands Program: Seventy Years of Failure of the Federal and State Governments to Protect the Civil Rights of Native Hawaiians.

Persons desiring additional information, or planning a presentation to the Committee, should contact Committee Chairperson, André S. Tatibouet or Philip Montez, Director of the Western Regional Division (213) 894-3437, (TDD 213/894-0508). Hearing impaired persons who will attend the meeting and require the services of a sign language interpreter, should contact the Regional Division office at least five (5) working days before the scheduled date of the meeting.

The meeting will be conducted pursuant to the provisions of the rules and regulations of the Commission.

Dated at Washington, DC, November 13, 1991.

Carol-Lee Hurley,

Chief, Regional Programs Coordination Unit.

[FR Doc. 91-27829 Filed 11-19-91; 8:45 am]

BILLING CODE 6335-01-M

DEPARTMENT OF COMMERCE

Bureau of Export Administration

Action Affecting Export Privileges; Rez Panjtan Amiri, Also Known as Ray Amiri and Mohammad Danesh, Also Known as Don Danesh and Ray Amiri Computer Consultants

Order Temporarily Denying Export Privileges

The Office of Export Enforcement, Bureau of Export Administration, United States Department of Commerce (Department), pursuant to the provisions of § 788.19 of the Export Administration Regulations (currently codified at 15 CFR parts 768-799 (1991)) (the Regulations), issued pursuant to the Export Administration Act of 1979, as amended (currently codified at 50 U.S.C.A. app. 2401-2420 (1991)) (Act),[1] has asked the Acting Assistant Secretary for Export Enforcement to issue an order temporarily denying all United States export privileges to Reza Panjtan Amiri, also known as Ray Amiri (Amiri); Mohammad Danesh, also known as Don Danesh (Danesh); and Ray Amiri Computer Consultants (RACC).

In its request, the Department states that, as a result of its ongoing investigation, the Department has reason to believe that, during the period between on or about April 1989 and on or about October 31, 1990, Amiri and Danesh, acting through RACC, a company located in Newport Beach, California, exported U.S.-origin electronic test and measurement equipment and oscilloscopes, controlled for reasons of foreign policy, to Iran without the validated export licenses required by the Regulations for such exports.

The Department believes that Amiri and Danesh, acting through RACC, would obtain orders from customers in Iran for U.S.-origin commodities. The commodities would be ordered from U.S. suppliers by RACC on the representation that the goods were intended for use in the United States. Once the goods were delivered to RACC, Amiri and Danesh would export the goods to Iran. In certain instances, they would submit license applications to the Department seeking authorization to export the goods from the United States to Iran. Without waiting to determine whether the Department would issue a validated export license, or, in those instances in which no application was filed, Amiri and Danesh would export the goods to Iran. In order to conceal the fact that no validated license existed that would authorize the exports, Amiri and Danesh would submit Shipper's Export Declarations (SEDs) to the U.S. government stating that the exports were authorized under general licenses G-DEST or GLV. In instances in which they claimed that the export was being made under general license GLV, they would also misdescribe the commodity classification and the true value of the commodity being exported.

The Department's investigation reveals that, on at least eight separate

[1] The Act expired on September 30, 1990. Executive Order 12730 (55 FR 40373, October 2, 1990) continued the Regulations in effect under the International Emergency Economic Powers Act (50 U.S.C.A. 1701-1706 (1991)).

occasions between August 3, 1989 and October 13, 1990, Amiri, Danesh and RACC exported U.S.-origin equipment from the United States to Iran without the required validated export license in the manner described above.[2]

The Department also stated that the investigation has given the Department reason to believe that Amiri, Danesh and RACC continue to seek to obtain U.S.-origin commodities that they intend to export from the United States.

In light of the above-described events, the Department believes that the violations Amiri, Danesh and RACC are suspected of having committed were significant, deliberate and covert and are likely to occur again unless a temporary denial order naming Amiri, Danesh and RACC is issued by the Acting Assistant Secretary. In addition, the Department believes that a temporary denial order is necessary to give notice to companies in the United States and abroad that they should cease dealing with Amiri, Danesh and RACC in export-related transactions involving U.S.-origin goods.

Accordingly, based on the showing made by the Department, I find that an order temporarily denying the export privileges of Reza Panjtan Amiri, also known as Ray Amiri; Mohammad Danesh, also known as Don Danesh; and Ray Amiri computer Consultants is necessary in the public interest to prevent an imminent violation of the Act and the Regulations and to give notice to companies in the United States and abroad to cease dealing with Amiri, Danesh and RACC in goods and technical data subject to the Act and the Regulations, in order to reduce the substantial likelihood that Amiri, Danesh and RACC will continue to engage in activities that are in violation of the Act and Regulations. This order is issued on an *ex parte* basis without a hearing based on the Department's showing that expedited action is required.

Accordingly, it is hereby:

Ordered

I. All outstanding individual validated licenses in which Amiri, Danesh and RACC appear or participate, in any manner or capacity, are hereby revoked and shall be returned forthwith to the Office of Export Licensing for cancellation. Further, all of Amiri's Danesh's and RACC's privileges of participating, in any manner or capacity, in any special licensing procedure, including, but not limited to, distribution licenses, are hereby revoked.

II. For a period of 180 days from the date of entry of this order, Reza Panjtan Amiri, also known as Ray Amiri, with addresses at 13165 E. Essex Drive, Cerritos, California 90701 and c/o Ray Amiri Computer Consultants, 4320 Campus Drive, suite 250, Newport Beach, California 92660; Mohammad Danesh, also known as Don Danesh, with addresses at 27591 Bocina, Mission Viejo, California 92692 and c/o Ray Amiri Computer Consultants, 4320 Campus Drive, suite 250, Newport Beach, California 92660; and Ray Amiri Computer Consultants, 4320 Campus Drive, Suite 250, Newport Beach, California 92660, and all their successors, assignees, officers, partners, representatives, agents, and employees, hereby are denied all privileges of participating, directly or indirectly, in any manner or capacity, in any transaction in the United States or abroad involving any commodity or technical data exported or to be exported from the United States, in whole or in part, and subject to the Regulations. Without limiting the generality of the foregoing, participation, either in the United States or abroad, shall include participation, directly or indirectly, in any manner or capacity: (i) As a party or as a representative of a party to any export license application submitted to the Department; (ii) in preparing or filing with the Department any export license application or request for reexport authorization, or any document to be submitted therewith; (iii) in obtaining from the Department or using any validated or general export license, reexport authorization, or other export control document; (iv) in carrying on negotiations with respect to, or in receiving, ordering, buying, selling, delivering, storing, using, or disposing of, in whole or in part, any commodities or technical data exported or to be exported from the United States, in whole or in part, and subject to the Regulations; and (v) in financing, forwarding, transporting, or other servicing of such commodities or technical data.

III. After notice and opportunity for comment as provided in § 788.3(c), any person, firm, corporation, or business organization related to Amiri, Danesh and/or RACC by affiliation, ownership, control, or position of responsibility in the conduct of trade or related services may also be subject to the provisions of this Order.

IV. As provided by § 787.12(a) of the Regulations, without prior disclosure of the facts to and specific authorization of the Office of Export Licensing, in consultation with the Office of Export Enforcement, no person may directly or indirectly, in any manner or capacity: (i) Apply for, obtain, or use any license, Shipper's Export Declaration, bill of lading, or other export control document relating to an export or reexport of commodities or technical data by, to, or for another person then subject to an order revoking or denying his export privileges or then excluded from practice before the Bureau of Export Administration; or (ii) order, buy, receive, use, sell, deliver, store, dispose of, forward, transport, finance, or otherwise service or participate: (a) In any transaction which may involve any commodity or technical data exported or to be exported from the United States; (b) in any reexport thereof; or (c) in any other transaction which is subject to the Export Administration Regulations, if the person denied export privileges may obtain any benefit or have any interest in, directly or indirectly, any of these transactions.

V. In accordance with the provisions of § 788.19(e) of the Regulations, any respondent may, at any time, appeal this temporary denial order by filing with the Office of the Administrative Law Judge, U.S. Department of Commerce, room H-6716, 14th Street and Constitution Avenue, NW., Washington, DC 20230, a full written statement in support of the appeal.

VI. This order is effective immediately and shall remain in effect for 180 days.

VII. In accordance with the provisions of § 788.19(d) of the Regulations, the Department may seek renewal of this temporary denial order by filing a written request not later than 20 days before the expiration date. Any respondent may oppose a request to renew this temporary denial order by filing a written submission with the Assistant Secretary for Export Enforcement, which must be received not later than seven days before the expiration date of this order.

A copy of this order shall be served on each respondent and this order shall be published in the **Federal Register**.

Dated: November 12, 1991.

Douglas E. Lavin,

Acting Assistant Secretary for Export Enforcement.

[FR Doc. 91-27882 Filed 11-19-91; 8:45 am]

BILLING CODE 3510-DT-M

[2] On September 12, 1991, a 17-count indictment was returned against Amiri and Danesh charging them with conspiracy, unlawful exports and making false statements to the U.S. government on the SEDs submitted in connection with these eight exports.

Patent and Trademark Office

[Docket No. 911173-1273]

Request for Information Regarding Process Patent Amendments Made by the Omnibus Trade and Competitiveness Act of 1988

AGENCY: Patent and Trademark Office, Commerce.

ACTION: Request for information from domestic industries regarding possible adverse effects of the process patent amendments made by the Omnibus Trade and Competitiveness Act of 1988 (Pub. L. 100-418).

DATES: Comments must be received on or before January 31, 1992.

FOR FURTHER INFORMATION CONTACT: Documents and questions should be submitted to Michael K. Kirk, Assistant Commissioner for External Affairs, Box 4, Patent and Trademark Office, Washington, DC 20231. Telephone at (703) 305-9300.

SUPPLEMENTARY INFORMATION: The Omnibus Trade and Competitiveness Act of 1988 (Pub. L. 100-418) was enacted on August 23, 1988. Among other things, the Act amended title 35, United States Code, to extend the protection of a process patented in the United States also to products made by that process. As a consequence, whoever without authority imports into the United States, or sells or uses in this country, a product made by a patented process shall be liable as an infringer, if the importation, sale or use occurs during the term of the process patent. (Sections 9002 and 9003 of Public Law 100-418). The effective date of that amendment was February 23, 1989.

Section 9007 of the Act requires the Secretary of Commerce to report to the Congress, at the end of each one-year period from the effective date of the above amendments, on the effect of these amendments on those domestic industries that submitted complaints during such period, alleging that their legitimate sources of supply have been adversely affected. Such reports must be submitted for five successive years.

The third report from the Secretary of Commerce to the Congress will be submitted on February 23, 1992, covering the preceding one-year period. Accordingly, it is requested that domestic industries wishing their complaints reflected in the Secretary's report ensure that any submission on this subject is received by the Department of Commerce not later than January 31, 1992.

Dated: November 4, 1991.

Harry F. Manbeck, Jr.,

Assistant Secretary and Commissioner of Patents and Trademarks.

[FR Doc. 91-27831 Filed 11-19-91; 8:45 am]

BILLING CODE 3510-16-M

National Institute of Standards and Technology

Malcolm Baldrige National Quality Award's Board of Overseers

AGENCY: National Institute of Standards and Technology, DOC.

ACTION: Notice of partially closed meeting.

SUMMARY: Pursuant to the Federal Advisory Committee Act, 5 U.S.C. app. 2, notice is hereby given that there will be a meeting of the Board of Overseers of the Malcolm Baldrige National Quality Award on Thursday, December 5, 1991, from 8 a.m. to 4:30 p.m. The Board of Overseers consists of seven members prominent in the field of quality management and appointed by the Secretary of Commerce, assembled to advise the Secretary of Commerce on the conduct of the Baldrige Award. The purpose of the meeting on December 5, 1991, will be for the Board of Overseers to receive and then discuss reports from the National Institute of Standards and Technology (NIST) and the Panel of Judges of the Malcolm Baldrige National quality Award. These reports will cover the following topics: 8-9:30 a.m.—Introductions and overview of the 1991 Award Program; 9:30-10 a.m.—Report by the contractor, American Society for Quality Control; 10:15-10:45 a.m.—Report by the Chairman of the Judges Panel; 10:45 a.m.-3:30 p.m.—Discussions for plans for the 1992 award: outline key issues and then outline recommendations. This session will include a working lunch. The discussion with the Secretary of Commerce scheduled to begin at 3:30 p.m. on December 5, 1991, will be closed.

DATES: The meeting will convene December 5, 1991, at 8 a.m., and adjourn at approximately 4:30 p.m. on December 5, 1991. The open part of the meeting will commence at 8 a.m. and adjourn at 3:30 p.m. on December 5, 1991.

ADDRESSES: The meeting will be held at Department of Commerce, Herbert C. Hoover Building, room 1414, 14th Street and Constitution Avenue, Washington, DC 20230.

FOR FURTHER INFORMATION CONTACT: Dr. Curt W. Reimann, Director for Quality Programs, National Institute of Standards and Technology, Gaithersburg, Maryland 20899, telephone number (301) 975-2036.

SUPPLEMENTARY INFORMATION: The Assistant Secretary for Administration, with the concurrence of the General Counsel, formally determined on November 13, 1991, that the meeting of the Board of Overseers will be closed pursuant to section 10(d) of the Federal Advisory Committee Act, (5 U.S.C. app. 2, section 10(d)), that the portions of this meeting which involve examination and discussion of records may be closed to the public in accordance with section 552b(c)(4) of title 5, United States Code, since that portion of the meeting is likely to disclose trade secrets and commercial of financial information obtained from a person which is privileged or confidential. All other portions of the meeting will be open to the public.

Dated: November 15, 1991.

John Lyons,

Director.

[FR Doc. 91-27926 Filed 11-19-91; 8:45 am]

BILLING CODE 3510-13-M

COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS

Adjustment of Import Limits for Certain Cotton, Man-Made Fiber and Silk Blend Textile Products Produced or Manufactured in the People's Republic of China

November 15, 1991.

AGENCY: Committee for the Implementation of Textile Agreements (CITA).

ACTION: Issuing a directive to the Commissioner of Customs adjusting limits.

EFFECTIVE DATE: November 22, 1991.

FOR FURTHER INFORMATION CONTACT: Janet Heinzen, International Trade Specialist, Office of Textiles and Apparel, U.S. Department of Commerce, (202) 377-4212. For information on the quota status of these limits, refer to the Quota Status Reports posted on the bulletin boards of each Customs port or call (202) 566-6828. For information on embargoes and quota re-openings, call (202) 377-3715.

SUPPLEMENTARY INFORMATION:

Authority: Executive Order 11651 of March 3, 1972, as amended; section 204 of the Agricultural Act of 1956, as amended (7 U.S.C. 1854).

The current limits for Categories 641 and 646 are being increased, respectively, for special shift and swing. The limits for Categories 341 and 613 are

being reduced to account for the special shift and swing being applied. As a result of the increase, the limit for Category 846, which is currently filled, will re-open.

A description of the textile and apparel categories in terms of HTS numbers is available in the CORRELATION: Textile and Apparel Categories with the Harmonized Tariff Schedule of the United States (see **Federal Register** notice 55 FR 50756, published on December 10, 1990). Also see 55 FR 48268, published on November 20, 1990.

The letter to the Commissioner of Customs and the actions taken pursuant to it are not designed to implement all of the provisions of the bilateral agreement, but are designed to assist only in the implementation of certain of its provisions.

Auggie D. Tantillo,

Chairman, Committee for the Implementation of Textile Agreements.

Committee for the Implementation of Textile Agreements

November 15, 1991.

Commissioner of Customs,
Department of the Treasury, Washington, DC 20229.

Dear Commissioner: This directive amends, but does not cancel, the directive issued to you on November 14, 1990, by the Chairman, Committee for the Implementation of Textile Agreements. That directive concerns imports of certain cotton, wool, man-made fiber, silk blend and other vegetable fiber textiles and textile products, produced or manufactured in China and exported during the twelve-month period which began on January 1, 1991 and extends through December 31, 1991.

Effective on November 22, 1991, you are directed to amend further the directive dated November 14, 1990 to adjust the limits for the following categories, as provided under the terms of the current bilateral agreement between the Governments of the United States and the People's Republic of China:

Category	Adjusted twelve-month limit [1]
Levels not subject to a group	
341	520,339 dozen of which not more than 365,022 dozen shall be in Category 341-Y [2]
613	1,653,784 square meters.
641	1,362,154 dozen.
846	105,792 dozen.

[1] The limits have not been adjusted to account for any imports exported after December 31, 1990.
[2] Category 341-Y: only HTS numbers 6204.22.3060, 6206.30.3010 and 6206.30.3030.

The Committee for the Implementation of Textile Agreements has determined that these actions fall within the foreign affairs exception to the rulemaking provisions of 5 U.S.C. 553(a)(1).

Sincerely,

Auggie D. Tantillo,

Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc. 91-27931 Filed 11-19-91; 8:45 am]

BILLING CODE 3510-DR-F

Establishment, Amendment and Adjustment of Import Limits and Amendment of Export Visa Requirements for Certain Cotton and Man-Made Fiber Textile Products Produced or Manufactured in Egypt

November 15, 1991.

AGENCY: Committee for the Implementation of Textile Agreements (CITA).

ACTION: Issuing a directive to the Commissioner of Customs establishing, amending and adjusting import limits and amending visa requirements.

EFFECTIVE DATE: November 22, 1991.

FOR FURTHER INFORMATION CONTACT: Jennifer Aldrich, International Trade Specialist, Office of Textiles and Apparel, U.S. Department of Commerce, (202) 377-4212. For information on the quota status of these limits, refer to the Quota Status Reports posted on the bulletin boards of each Customs port or call (202) 566-5810. For information on embargoes and quota re-openings, call (202) 377-3715.

SUPPLEMENTARY INFORMATION:

Authority: Executive Order 11651 of March 3, 1972, as amended; section 204 of the Agricultural Act of 1956, as amended (7 U.S.C. 1854).

In a Memorandum of Understanding (MOU) dated October 25, 1991 between the Governments of the United States and the Arab Republic of Egypt, agreement was reached, among other things, to establish a specific limit for Category 369-S and increase the current sublimit for Category 301. The current limits for Group I and Categories 227, 300/301 and 301 are being adjusted to account for swing and cancellation of special shift and swing previously applied. A formal exchange of notes will follow. As a result of the adjustments, the sublimit for Category 301, which is currently filled, will re-open.

In addition, the visa requirements are being amended to require a visa for Category 369-S (shop towels) and 369 (other than shop towels), produced or manufactured in Egypt and exported from Egypt on and after November 22, 1991.

A description of the textile and apparel categories in terms of HTS numbers is available in the CORRELATION: Textile and Apparel Categories with the Harmonized Tariff Schedule of the United States (see **Federal Register** notice 55 FR 50756, published on December 10, 1990). Also see 52 FR 48857, published on December 28, 1987; 55 FR 49936, published on December 3, 1990; and 56 FR 23554, published on May 22, 1991.

The letter to the Commissioner of Customs and the actions taken pursuant to it are not designed to implement all of the provisions of the MOU, but are designed to assist only in the implementation of certain of its provisions.

Auggie D. Tantillo,

Chairman, Committee for the Implementation of Textile Agreements.

Committee for the Implementation of Textile Agreements

November 15, 1991.

Commissioner of Customs,
Department of the Treasury, Washington, DC 20229.

Dear Commissioner: This directive amends, but does not cancel, the directives issued to you on November 27, 1990 and May 16, 1991, by the Chairman, Committee for the Implementation of Textile Agreements. Those directives concern imports of certain cotton and man-made fiber textile products, produced or manufactured in Egypt and exported during the periods which began on January 1, 1991 and April 30, 1991 and extend through December 31, 1991.

Effective on November 22, 1991, pursuant to the Memorandum of Understanding (MOU) dated October 25, 1991 between the Governments of the United States and the Arab Republic of Egypt, you are directed to amend the restraint period for Category 369-S to begin on January 1, 1991 and extend through December 31, 1991 and adjust the limits for the following categories:

Category	Twelve-month restraint limit [1]
Group I 218-220, 224-227, 313-317 and 326, as a group.	62,123,436 square meters.
Sublevel in Group I 227	12,272,957 square meters.
Level not in a group 300/301	7,012,120 kilograms of which not more than 1,276,952 kilograms shall be in Category 301.
369-S [2]	925,000 kilograms.

[1] The limits have not been adjusted to account for any imports exported after December 31, 1990.
[2] Category 369-S: only HTS number 6307.10.2005.

You are directed to charge 281,088 kilograms to Category 369-S for the restraint period January 1, 1991 through December 31, 1991. These charges are for goods imported during the period January 1, 1991 through

May 23, 1991. Charges already made to Category 369–S shall be retained.

For visa purposes, you are directed to amend the directive dated December 21, 1987 to require a visa for Category 369–S (shop towels) and Category 369 (other than shop towels) which are exported from Egypt on and after November 22, 1991. Shipments entered for consumption or withdrawn from warehouse for consumption on and after November 22, 1991 which are not accompanied by an appropriate visa shall be denied entry.

The Committee for the Implementation of Textile Agreements has determined that these actions fall within the foreign affairs exception to the rulemaking provisions of 5 U.S.C. 553(a)(1).

Sincerely,

Auggie D. Tantillo,

Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc. 91–27932 Filed 11–19–91; 8:45 am]

BILLING CODE 3510–DR–F

Announcement of Import Restraint Limits for Certain Cotton and Man-Made Fiber Textile Products Produced or Manufactured in Egypt

November 15, 1991.

AGENCY: Committee for the Implementation of Textile Agreements (CITA).

ACTION: Issuing a directive to the Commissioner of Customs establishing limits for the new agreement year.

EFFECTIVE DATE: January 1, 1992.

FOR FURTHER INFORMATION CONTACT: Jennifer Aldrich, International Trade Specialist, Office of Textiles and Apparel, U.S. Department of Commerce, (202) 377–4212. For information on the quota status of these limits, refer to the Quota Status Reports posted on the bulletin boards of each Customs port or call (202) 566–5810. For information on embargoes and quota re-openings, call (202) 377–3715.

SUPPLEMENTARY INFORMATION:

Authority: Executive Order 11651 of March 3, 1972, as amended; section 204 of the Agricultural Act of 1956, as amended (7 U.S.C. 1854).

In a Memorandum of Understanding (MOU) dated October 25, 1991 between the Governments of the United States and the Arab Republic of Egypt, agreement was reached to extend the bilateral agreement for two consecutive one-year periods, beginning on January 1, 1992 and extending through December 31, 1993. A formal exchange of notes will follow.

In the letter published below, the Chairman of CITA directs the Commissioner of Customs to establish limits for the period January 1, 1992 through December 31, 1992.

A description of the textile and apparel categories in terms of HTS numbers is available in the CORRELATION: Textile and Apparel Categories with the Harmonized Tariff Schedule of the United States (see **Federal Register** notice 55 FR 50756, published on December 10, 1990). Information regarding the 1992 CORRELATION will be published in the **Federal Register** at a later date.

The letter to the Commissioner of Customs and the actions taken pursuant to it are not designed to implement all of the provisions of the MOU, but are designed to assist only in the implementation of certain of its provisions.

Auggie D. Tantillo,

Chairman, Committee for the Implementation of Textile Agreements.

Committee for the Implementation of Textile Agreements

November 15, 1991.

Commissioner of Customs,
Department of the Treasury, Washington, DC 20229.

Dear Commissioner: Under the terms of section 204 of the Agricultural Act of 1956, as amended (7 U.S.C. 1854), and the Arrangement Regarding International Trade in Textiles done at Geneva on December 20, 1973, as further extended on July 31, 1991; pursuant to the Memorandum of Understanding (MOU) dated October 25, 1991, between the Governments of the United States and the Arab Republic of Egypt; and in accordance with the provisions of Executive Order 11651 of March 3, 1972, as amended, you are directed to prohibit, effective on January 1, 1992, entry into the United States for consumption and withdrawal from warehouse for consumption of cotton and man-made fiber textile products in the following categories, produced or manufactured in Egypt and exported during the twelve-month period beginning on January 1, 1992 and extending through December 31, 1992, in excess of the following levels of restraint:

Category	Twelve-month restraint limit
Fabric Group 218–220, 224–227, 313–317 and 326, as a group.	69,286,342 square meters.
Sublevels in Fabric Group	
218	2,508,000 square meters.
219	16,295,283 square meters.
220	16,295,283 square meters.
224	16,295,283 square meters.
225	16,295,283 square meters.
226	16,295,283 square meters.
227	16,295,283 square meters.
313	29,922,811 square meters.
314	16,295,283 square meters.
315	19,135,698 square meters.
317	16,295,283 square meters.
326	2,508,000 square meters.
Levels not in a group	
300/301	6,376,834 kilograms of which not more than 2,000,000 kilograms shall be in Category 301.
339	772,915 dozen.
369–S [1]	980,500 kilograms.

[1] Category 369–S: only HTS number 6307.10.2005.

Imports charged to these category limits for the period January 1, 1991 through December 31, 1991 shall be charged against those levels of restraint to the extent of any unfilled balances. In the event the limits established for that period have been exhausted by previous entries, such goods shall be subject to the levels set forth in this directive.

The limits set forth above are subject to adjustment in the future pursuant to the provisions of the bilateral agreement between the Governments of the United States and the Arab Republic of Egypt.

In carrying out the above directions, the Commissioner of Customs should construe entry into the United States for consumption to include entry for consumption into the Commonwealth of Puerto Rico.

The Committee for the Implementation of Textile Agreements has determined that these actions fall within the foreign affairs exception of the rulemaking provisions of 5 U.S.C. 553(a)(1).

Sincerely,

Auggie D. Tantillo,

Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc. 91–27933 Filed 11–19–91; 8:45 am]

BILLING CODE 3510–DR–F

Announcement of Import Restraint Limits and Amendment of Export Visa Requirements for Certain Cotton, Wool and Man-Made Fiber Textile Products Produced or Manufactured in Hungary

November 15, 1991.

AGENCY: Committee for the Implementation of Textile Agreements (CITA).

ACTION: Issuing a directive to the Commissioner of Customs establishing limits for the new agreement year and amending visa requirements.

EFFECTIVE DATE: January 1, 1992.

FOR FURTHER INFORMATION CONTACT: Naomi Freeman, International Trade Specialist, Office of Textiles and Apparel, U.S. Department of Commerce, (202) 377–4212. For information on the quota status of these limits, refer to the Quota Status Reports posted on the bulletin boards of each Customs port or call (202) 566–5810. For information on

embargoes and quota re-openings, call (202) 377–3715.

SUPPLEMENTARY INFORMATION:

Authority: Executive Order 11651 of March 3, 1972, as amended; section 204 of the Agricultural Act of 1956, as amended (7 U.S.C. 1854).

In a Memorandum of Understanding (MOU) dated October 10, 1991, the Governments of the United States and the Republic of Hungary agreed to amend and extend their current bilateral agreement for two consecutive one-year periods, beginning on January 1, 1992 and extending through December 31, 1993. Categories 300/301, 313, 442, 445/446, 645/646 and 669–P shall no longer be subject to quota and visa requirements. A formal exchange of diplomatic notes will follow.

Also effective on January 1, 1992, Category 434 shall be subject to quota and visa requirements.

In the letter published below, the Chairman of CITA directs the Commissioner of Customs to amend the existing visa requirements and to establish limits for the period January 1, 1992 through December 31, 1992.

A description of the textile and apparel categories in terms of HTS numbers is available in the CORRELATION: Textile and Apparel Categories with the Harmonized Tariff Schedule of the United States (see **Federal Register** notice 55 FR 50756, published on December 10, 1990). Also see 49 FR 8659, published on March 8, 1984. Information regarding the 1992 CORRELATION will be published in the **Federal Register** at a later date.

The letter to the Commissioner of Customs and the actions taken pursuant to it are not designed to implement all of the provisions of the MOU, but are designed to assist only in the implementation of certain of its provisions.

Auggie D. Tantillo,

Chairman, Committee for the Implementation of Textile Agreements.

Committee for the Implementation of Textile Agreements

November 15, 1991.

Commissioner of Customs,
Department of the Treasury, Washington, DC 20229.

Dear Commissioner: Under the terms of section 204 of the Agricultural Act of 1956, as amended (7 U.S.C. 1854), and the Arrangement Regarding International Trade in Textiles done at Geneva on December 20, 1973, as further extended on July 31, 1991; pursuant to the Memorandum of Understanding (MOU) dated October 10, 1991 between the Governments of the United States and the Republic of Hungary; and in accordance with the provisions of Executive Order 11651 of March 3, 1972, as amended, you are directed to prohibit, effective on January 1, 1992, entry into the United States for consumption and withdrawal from warehouse for consumption of wool and man-made fiber textile products in the following categories, produced or manufactured in Hungary and exported during the twelve-month period beginning on January 1, 1992 and extending through December 31, 1992, in excess of the following levels of restraint:

Category	Twelve-month restraint limit
410	870,078 square meters.
433	16,500 dozen.
434	14,000 dozen.
435	22,000 dozen.
443	155,000 numbers.
444	50,000 numbers.
448	28,000 dozen.
604	858,975 kilograms.

Imports charged to these category limits for the period January 1, 1991 through December 31, 1991 shall be charged against those levels of restraint to the extent of any unfilled balances. In the event the limits established for that period have been exhausted by previous entries, such goods shall be subject to the levels set forth in this directive.

The limits set forth above are subject to adjustment in the future pursuant to the provisions of the Bilateral Cotton, Wool and Man-Made Fiber Textile Agreement, effected by exchange of notes dated February 15 and 25, 1983, as amended, and the MOU dated October 10, 1991 between the Governments of the United States and the Republic of Hungary.

Also effective on January 1, 1992, you are directed to amend further the March 5, 1984 directive to require an export visa for shipments of wool textile products in Category 434 which are exported from Hungary on and after January 1, 1992. Shipments entered or withdrawn from warehouse on and after January 1, 1992 which are not accompanied by an appropriate visa shall be denied entry.

Textile products in Categories 300/301, 313, 442, 445/446, 645/646 and 669–P [1], which are exported from Hungary on and after January 1, 1992 shall no longer be subject to visa requirements.

In carrying out the above directions, the Commissioner of Customs should construe entry into the United States for consumption to include entry for consumption into the Commonwealth of Puerto Rico.

The Committee for the Implementation of Textile Agreements has determined that these actions fall within the foreign affairs exception of the rulemaking provisions of 5 U.S.C. 553(a)(1).

Sincerely,

Auggie D. Tantillo,

Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc. 91–27934 Filed 11–19–91; 8:45 am]

BILLING CODE 3510–DR–F

[1] Category 669–P: only HTS numbers 6305.31.0010, 6305.31.0020 and 6305.39.0000.

Announcement of Import Restraint Limits for Certain Cotton, Wool, Man-Made Fiber, Silk Blend and Other Vegetable Fiber Textiles and Textile Products Produced or Manufactured in Taiwan

November 15, 1991.

AGENCY: Committee for the Implementation of Textile Agreements (CITA).

ACTION: Issuing a directive to the Commissioner of Customs establishing limits for the new agreement year.

EFFECTIVE DATE: January 1, 1992.

FOR FURTHER INFORMATION CONTACT: Jennifer Tallarico, International Trade Specialist, Office of Textiles and Apparel, U.S. Department of Commerce, (202) 377–4212. For information on the quota status of these limits, refer to the Quota Status Reports posted on the bulletin boards of each Customs port or call (202) 566–8791. For information on embargoes and quota re-openings, call (202) 377–3715.

SUPPLEMENTARY INFORMATION:

Authority: Executive Order 11651 of March 3, 1972, as amended; section 204 of the Agricultural Act of 1956, as amended (7 U.S.C. 1854).

The Bilateral Textile Agreement, effected by exchange of notes dated August 21, 1990 and September 28, 1990, concerning cotton, wool, man-made fiber, silk blend and other vegetable fiber textiles and textile products establishes limits for the period beginning January 1, 1992 and extending through December 31, 1992.

A copy of the current bilateral agreement is available from the Textiles Division, Bureau of Economic and Business Affairs, U.S. Department of State, (202) 647–3889.

A description of the textile and apparel categories in terms of HTS numbers is available in the CORRELATION: Textile and Apparel Categories with the Harmonized Tariff Schedule of the United States (see **Federal Register** notice 55 FR 50756, published on December 10, 1990). Information regarding the 1992 CORRELATION will be published in the **Federal Register** at a later date.

The letter to the Commissioner of Customs and the actions taken pursuant to it are not designed to implement all of the provisions of the bilateral agreement, but are designed to assist

only in the implementation of certain of its provisions.

Auggie D. Tantillo,

Chairman, Committee for the Implementation of Textile Agreements.

Committee for the Implementation of Textile Agreements

November 15, 1991.

Commissioner of Customs,
Department of the Treasury, Washington, DC 20229.

Dear Commissioner: Under the terms of section 204 of the Agricultural Act of 1956, as amended (7 U.S.C. 1854); pursuant to the Bilateral Textile Agreement, effected by exchange of notes dated August 21, 1990 and September 28, 1990, concerning cotton, wool, man-made fiber, silk blend and other vegetable fiber textiles and textile products from Taiwan; and in accordance with the provisions of Executive Order 11651 of March 3, 1972, as amended, you are directed to prohibit, effective on January 1, 1992, entry into the United States for consumption and withdrawal from warehouse for consumption of cotton, wool, man-made fiber, silk blend and other vegetable fiber textiles and textile products in the following categories, produced or manufactured in Taiwan and exported during the twelve-month period beginning on January 1, 1992 and extending through December 31, 1992, in excess of the following levels of restraint:

Category	Twelve-month restraint limit
Group I	
200-224, 225/317/326, 226, 227, 229, 300/301/607, 313-315, 360-363, 369-L/670-L/870 [1], 369-S [2], 369-O [3], 400-414, 464-469, 600-606, 611, 613/614/615/617, 618, 619/620, 621-624, 625/626/627/628/629, 665, 666, 669-P [4], 669-T [5], 669-O [6], 670-H [7] and 670-O [8], as a group.	542,631,617 square meters equivalent.
Sublevels in Group I	
200	588,801 kilograms.
218	18,222,408 square meters.
219	13,400,518 square meters.
225/317/326	32,344,726 square meters.
226	5,869,535 square meters.
300/301/607	1,545,338 kilograms of which not more than 1,287,781 kilograms each shall be in Categories 300, 301 and 607.
313	62,167,086 square meters.
314	23,869,875 square meters.
315	18,290,406 square meters.
361	1,182,771 numbers.
363	11,729,393 numbers.
369-L/670-L/870	42,656,400 kilograms.
369-S	468,526 kilograms.
604	206,218 kilograms.
611	2,626,563 square meters.
613/614/615/617	16,289,682 square meters.
619/620	9,397,879 square meters.
625/626/627/628/629.	15,579,920 square meters.
669-P	283,238 kilograms.
669-T	920,581 kilograms.
670-H	16,334,280 kilograms.
Group II	
237, 239, 330-332, 333/334/335, 336, 338/339, 340-345, 347/348, 349, 350/650, 351, 352/652, 353, 354, 359-C/659-C [9], 359-H/659-H [10], 359-O [11], 431-444, 445/446, 447/448, 459, 630-632, 633/634/635, 636, 638/639, 640, 641-644, 645/646, 647/648, 649, 651, 653, 654, 659-S [12], 659-O [13], 831-844 and 846-859, as a group.	807,290,205 square meters equivalent
Sublevels in Group II	
237	575,265 dozen.
239	5,151,125 kilograms.
331	492,262 dozen pairs.
333/334/335	252,150 dozen of which not more than 136,581 dozen shall be in Category 335.
336	98,009 dozen.
338/339	716,290 dozen.
340	1,112,221 dozen.
341	328,258 dozen.
342	205,064 dozen.
345	102,408 dozen.
347/348	1,070,256 dozen.
350/650	127,513 dozen.
351	341,158 dozen.
352/652	2,600,278 dozen.
359-H/659-H	4,654,045 kilograms.
359-C/659-C	1,454,436 kilograms.
433	14,215 dozen.
434	9,869 dozen.
435	23,438 dozen.
436	4,665 dozen.
438	26,340 dozen.
440	5,101 dozen.
442	43,433 dozen.
443	39,798 numbers.
444	56,680 numbers.
445/446	131,429 dozen.
447/448	19,424 dozen.
631	4,322,476 dozen pairs.
633/634/635	1,634,440 dozen of which not more than 959,317 dozen shall be in Categories 633/634 and not more than 850,077 dozen shall be in Category 635.
636	357,711 dozen.
638/639	6,592,119 dozen.
640	2,196,291 dozen of which not more than 1,361,080 dozen shall be in Category 640-Y [14].
641	725,983 dozen of which not more than 254,094 dozen shall be in Category 641-Y [15].
642	777,910 dozen.
643	473,614 numbers.
644	624,075 numbers.
645/646	4,128,229 dozen.
647/648	5,707,874 dozen.
651	427,837 dozen.
659-S	1,778,232 kilograms.
835	16,400 dozen.
Group III	
845	846,123 dozen.

[1] Category 870; Category 369-L: only HTS numbers 4202.12.4000, 4202.12.8020, 4202.12.8060, 4202.92.1500, 4202.92.3015 and 4202.92.6000; Category 670-L: only HTS numbers 4202.12.8030, 4202.12.8070, 4202.92.3020, 4202.92.3030 and 4202.92.9020.

[2] Category 369-S: only HTS number 6307.10.2005

[3] Category 369-O: all HTS numbers except 4202.12.4000, 4202.12.8020, 4202.12.8060, 4202.92.1500, 4202.92.3015, 4202.92.6000 (Category 369-L); and 6307.10.2005 (Category 369-S).

[4] Category 669-P: only HTS numbers 6305.31.0010, 6305.31.0020 and 6305.39.0000

[5] Category 669-T: only HTS numbers 6306.12.0000, 6306.19.0010 and 6306.22.9030.

[6] Category 669-O: all HTS numbers except 6305.31.0010, 6305.31.0020, 6305.39.0000 (Category 669-P); 6306.12.0000, 6306.19.0010 and 6306.22.9030 (Category 669-T).

[7] Category 670-H: only HTS numbers 4202.22.4030 and 4202.22.8050.

[8] Category 670-O: all HTS numbers except 4202.22.4030 4202.22.8050 (Category 670-H); 4202.12.8030, 4202.12.8070, 4202.92.3020, 4202.92.3030 and 4202.92.9020 (Category 670-L).

[9] Category 359-C: only HTS numbers 6103.42.2025, 6103.49.3034, 6104.62.1020, 6104.69.3010, 6114.20.0048, 6114.20.0052, 6203.42.2010, 6203.42.2090, 6204.62.2010, 6211.32.0010, 6211.32.0025 and 6211.42.0010; Category 659-C: only HTS numbers 6103.23.0055, 6103.43.2020, 6103.43.2025, 6103.49.2000, 6103.49.3038, 6104.63.1020, 6104.63.1030, 6104.69.1000, 6104.69.3014, 6114.30.3044, 6114.30.3054, 6203.43.2010, 6203.43.2090, 6203.49.1010, 6203.49.1090, 6204.63.1510, 6204.69.1010, 6210.10.4015, 6211.33.0010, 6211.33.0017 and 6211.43.0010.

[10] Category 359-H: only HTS numbers 6505.90.1540 and 6505.90.2060; Category 659-H: only HTS numbers 6502.00.9030, 6504.00.9015, 6504.00.9060, 6505.90.5090, 6505.90.6090, 6505.90.7090 and 6505.90.8090.

[11] Category 359-O: all HTS numbers except 6103.42.2025, 6103.49.3034, 6104.62.1020, 6104.69.3010, 6114.20.0048, 6114.20.0052, 6203.42.2010, 6203.42.2090, 6204.62.2010, 6211.32.0010, 6211.32.0025, 6211.42.0010 (Category 359-C); 6505.90.1540 and 6505.90.2060 (Category 359-H).

[12] Category 659-S: only HTS numbers 6112.31.0010, 6112.31.0020, 6112.41.0010, 6112.41.0020, 6112.41.0030, 6112.41.0040, 6211.11.1010, 6211.11.1020, 6211.12.1010 and 6211.12.1020.

[13] Category 659-O: all HTS numbers except 6103.23.0055, 6103.43.2020, 6103.43.2025, 6103.49.2000, 6103.49.3038, 6104.63.1020, 6104.63.1030, 6104.69.1000, 6104.69.3014, 6114.30.3044, 6114.30.3054, 6203.43.2010, 6203.43.2090, 6203.49.1010, 6203.49.1090, 6204.63.1510, 6204.69.1010, 6210.10.4015, 6211.33.0010, 6211.33.0017, 6211.43.0010 (Category 659-C); 6502.00.9030, 6504.00.9015, 6504.00.9060, 6505.90.5090, 6505.90.6090, 6505.90.7090, 6505.90.8090 (Category 659-H); 6112.31.0010, 6112.31.0020, 6112.41.0010, 6112.41.0020, 6112.41.0030, 6112.41.0040, 6211.11.1010, 6211.11.1020, 6211.12.1010 and 6211.12.1020 (Category 659-S).

[14] Category 640-Y: only HTS numbers 6205.30.2010, 6205.30.2020, 6205.30.2050 and 6205.30.2060.

[15] Category 641-Y: only HTS numbers 6204.23.0050, 6204.29.2030, 6206.40.3010 and 6206.40.3025.

Imports charged to these category limits for the period January 1, 1991 through December 31, 1991 shall be charged against those levels of restraint to the extent of any unfilled balances. In the event the limits established

for that period have been exhausted by previous entries, such goods shall be subject to the levels set forth in this directive.

The limits set forth above are subject to adjustment in the future pursuant to the provisions of the Bilateral Textile Agreement, effected by exchange of notes dated August 21, 1990 and September 28, 1990.

The conversion factors for the following merged categories are as follows:

Category	Conversion factors (square meters equivalent/category unit)
300/301/607	8.5
333/334/335	33.75
352/652	11.3
359-C/659-C	10.1
359-H/659-H	11.5
369-L/670-L/870	3.8
633/634	33.9
633/634/635	34.1
638/639	12.5

In carrying out the above directions, the Commissioner of Customs should construe entry into the United States for consumption to include entry for consumption into the Commonwealth of Puerto Rico.

The Committee for the Implementation of Textile Agreements has determined that these actions fall within the foreign affairs exception of the rulemaking provisions of 5 U.S.C. 553(a)(1).

Sincerely,

Auggie D. Tantillo,

Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc. 91-27935 Filed 11-19-91; 8:45 am]

BILLING CODE 3510-DR-F

Announcement of Import Restraint Limits for Certain Cotton, Wool, Man-Made Fiber, Silk Blend and Other Vegetable Fiber Textiles and Textile Products Produced or Manufactured in Thailand

November 15, 1991.

AGENCY: Committee for the Implementation of Textile Agreements (CITA).

ACTION: Issuing a directive to the Commissioner of Customs establishing limits for the new agreement year.

EFFECTIVE DATE: January 1, 1992.

FOR FURTHER INFORMATION CONTACT: Ross Arnold, International Trade Specialist, Office of Textiles and Apparel, U.S. Department of Commerce, (202) 377-4212. For information on the quota status of these limits, refer to the Quota Status Reports posted on the bulletin boards of each Customs port or call (202) 343-6581. For information on embargoes and quota re-openings, call (202) 377-3715.

SUPPLEMENTARY INFORMATION:

Authority: Executive Order 11651 of March 3, 1972, as amended; section 204 of the Agricultural Act of 1956, as amended (7 U.S.C. 1854).

The Bilateral Textile Agreement of September 3, 1991 between the Governments of the United States and Thailand establishes limits for the period beginning on January 1, 1992 and extending through December 31, 1992.

A description of the textile and apparel categories in terms of HTS numbers is available in the CORRELATION: Textile and Apparel Categories with the Harmonized Tariff Schedule of the United States (see **Federal Register** notice 55 FR 50756, published on December 10, 1990). Information regarding the 1992 CORRELATION will be published in the **Federal Register** at a later date.

The letter to the Commissioner of Customs and the actions taken pursuant to it are not designed to implement all of the provisions of the bilateral agreement, but are designed to assist only in the implementation of certain of its provisions.

Auggie D. Tantillo,

Chairman, Committee for the Implementation of Textile Agreements.

Committee for the Implementation of Textile Agreements

November 15, 1991.

Commissioner of Customs,
Department of the Treasury, Washington, DC 20229.

Dear Commissioner: Under the terms of section 204 of the Agricultural Act of 1956, as amended (7 U.S.C. 1854), and the Arrangement Regarding International Trade in Textiles done at Geneva on December 20, 1973, as further extended on July 31, 1991; pursuant to the Bilateral Textile Agreement of September 3, 1991 between the Governments of the United States and Thailand; and in accordance with the provisions of Executive Order 11651 of March 3, 1972, as amended, you are directed to prohibit, effective on January 1, 1992, entry into the United States for consumption and withdrawal from warehouse for consumption of cotton, wool, man-made fiber, silk blend and other vegetable fiber textiles and textile products in the following categories, produced or manufactured in Thailand and exported during the twelve-month period beginning on January 1, 1992 and extending through December 31, 1992, in excess of the following levels of restraint:

Category	Twelve-month restraint limit
Levels in Group I	
200	795,000 kilograms.
219	4,240,000 square meters.
300	3,180,000 kilograms.
301-P[1]	3,180,000 kilograms.
301-O[2]	636,000 kilograms.
313/314/315	66,780,000 square meters of which not more than 14,840,000 square meters shall be in Category 313, not more than 33,920,000 square meters shall be in Category 314 and not more than 21,200,000 square meters shall be in Category 315.
317/326	8,215,000 square meters.
363	13,780,000 numbers.
369-D[3]	151,580 kilograms.
369-S[4]	212,000 kilograms.
604	477,000 kilograms of which not more than 318,000 kilograms shall be in Category 604-A[5].
607	2,120,000 kilograms.
611	12,120,000 square meters.
613/614/615	29,150,000 square meters of which not more than 16,960,000 square meters shall be in Category 614 and not more than 16,960,000 square meters shall be in Categories 613/615.
619	4,770,000 square meters.
620	4,770,000 square meters.
625/626/627/628/629.	8,480,000 square meters of which not more than 7,420,000 square meters shall be in Category 625.
Group II 237, 239, 330-359, 431-459, 630-659 and 831-859, as a group.	190,800,000 square meters equivalent.
Sublevels in Group II	
331/631	1,157,111 dozen pairs.
334/634	413,400 dozen.
335/635/835	328,600 dozen.
336/636	212,000 dozen.
338/339	1,456,000 dozen.
340	190,800 dozen.
341/641	450,500 dozen.
342/642	392,200 dozen.
345	201,400 dozen.
347/348/847	503,500 dozen.
351/651	159,000 dozen.
359-H/659-H[6].	763,200 kilograms.
434	11,110 dozen.
438	16,665 dozen.
442	19,352 dozen.
638/639	1,716,000 dozen.
640	349,800 dozen.
645/646	212,000 dozen.
647/648	754,720 dozen.

[1] Category 301-P: only HTS numbers 5206.21.0000, 5206.22.0000, 5206.23.0000, 5206.24.0000, 5206.25.0000, 5206.41.0000, 5206.42.0000, 5206.43.0000, 5206.44.0000 and 5206.45.0000.

[2] Category 301-O: only HTS numbers 5205.21.0000, 5205.22.0000, 5205.23.0000, 5205.24.0000, 5205.25.0000, 5205.41.0000, 5205.42.0000, 5205.43.0000, 5205.44.0000 and 5205.45.0000.

[3] Category 369-D: only HTS numbers 6302.60.0010, 6302.91.0005 and 6302.91.0045.

[4] Category 369-S: only HTS number 6307.10.2005.

[5] Category 604-A: only HTS number 5509.32.0000.

[6] Category 359-H: only HTS numbers 6505.90.1540 and 6505.90.2060; Category 659-H: only HTS numbers 6502.00.9030, 6504.00.9015, 6504.00.9060, 6505.90.5090, 6505.90.6090, 6505.90.7090 and 6505.90.8090.

The limits established in this directive may be adjusted in the future pursuant to the provisions of the Bilateral Textile Agreement of September 3, 1991, between the Governments of the United States and Thailand.

The conversion factors for merged Categories 359–H/659–H and 638/639 are 11.5 and 12.96, respectively.

In carrying out the above directions, the Commissioner of Customs should construe entry into the United States for consumption to include entry for consumption into the Commonwealth of Puerto Rico.

The Committee for the Implementation of Textile Agreements has determined that these actions fall within the foreign affairs exception of the rulemaking provisions of 5 U.S.C. 553(a)(1).

Sincerely,

Auggie D. Tantillo,

Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc. 91–27936 Filed 11–19–91; 8:45 am]

BILLING CODE 3510–DR–F

Request for Public Comments on Bilateral Textile Consultations with the Federative Republic of Brazil on Certain Wool Textile Products

November 15, 1991.

AGENCY: Committee for the Implementation of Textile Agreements (CITA).

ACTION: Issuing a directive to the Commissioner of Customs establishing a limit.

EFFECTIVE DATE: November 22, 1991.

FOR FURTHER INFORMATION CONTACT: Nicole Bivens Collinson, International Trade Specialist, Office of Textiles and Apparel, U.S. Department of Commerce, (202) 377–4212. For information on the quota status of this limit, refer to the Quota Status Reports posted on the bulletin boards of each Customs port or call (202) 566–5810. For information on embargoes and quota re-openings, call (202) 377–3715. For information on categories on which consultations have been requested, call (202) 377–3740.

SUPPLEMENTARY INFORMATION:

Authority: Executive Order 11651 of March 3, 1972, as amended; section 204 of the Agricultural Act of 1956, as amended (7 U.S.C. 1854).

On October 31, 1991, under the terms of the Bilateral Cotton, Wool and Man-Made Fiber Textile Agreement, effected by exchange of notes dated September 15 and 19, 1988, between the Governments of the United States and the Federative Republic of Brazil, the United States Government requested consultations with the Government of the Federative Republic of Brazil with respect to men's and boys' wool suits in Category 443.

The purpose of this notice is to advise the public that, pending agreement on a mutually satisfactory solution concerning Category 443, the Government of the United States has decided to control imports during the ninety-day period which began on October 31, 1991 and extends through January 28, 1992.

If no solution is agreed upon in consultations between the two governments, CITA, pursuant to the agreement, may later establish a specific limit for the entry and withdrawal from warehouse for consumption of textile products in Category 443, produced or manufactured in Brazil and exported during the prorated period beginning on January 29, 1992 and extending through March 31, 1992, of not less than 13,078 numbers.

A summary market statement concerning Category 443 follows this notice.

Anyone wishing to comment or provide data or information regarding the treatment of Category 443, under the agreement with the Government of the Federative Republic of Brazil, or to comment on domestic production or availability of products included in Category 443, is invited to submit 10 copies of such comments or information to Auggie D. Tantillo, Chairman, Committee for the Implementation of Textile Agreements, U.S. Department of Commerce, Washington, DC 20230; ATTN: Helen L. LeGrande.

Because the exact timing of the consultations is not yet certain, comments should be submitted promptly. Comments or information submitted in response to this notice will be available for public inspection in the Office of Textiles and Apparel, room H3100, U.S. Department of Commerce, 14th and Constitution Avenue, NW., Washington, DC.

Further comments may be invited regarding particular comments or information received from the public which the Committee for the Implementation of Textile Agreements considers appropriate for further consideration.

The solicitation of comments regarding any aspect of the agreement or the implementation thereof is not a waiver in any respect of the exemption contained in 5 U.S.C. 553(a)(1) relating to matters which constitute "a foreign affairs function of the United States."

The United States remains committed to finding a solution concerning Category 443. Should such a solution be reached in consultations with the Government of the Federative Republic of Brazil, further notice will be published in the **Federal Register**.

A description of the textile and apparel categories in terms of HTS numbers is available in the CORRELATION: Textile and Apparel Categories with the Harmonized Tariff Schedule of the United States (see **Federal Register** notice 55 FR 50756, published on December 10, 1990).

Auggie D. Tantillo,

Chairman, Committee for the Implementation of Textile Agreements.

Market Statement—Brazil

Category 443—Men's and Boys' Wool Suits

October 1991

Import Situation and Conclusion

U.S. imports of men's and boys' wool suits, Category 443, from Brazil reached 80,093 units (6,674 dozen) during the year ending in August 1991, 39 percent above the 57,542 units (4,795 dozen) imported during the year ending in August 1990. In the first eight months of 1991, imports of Category 443 from Brazil reached 48,045 units (4,004 dozen), 44 percent above the 33,435 units (2,786 dozen) shipped during the same time period in 1990.

The sharp and substantial increase of Category 443 imports from Brazil is causing a real risk of market disruption in the U.S. market for men's and boys' wool suits.

U.S. Production, Import Penetration and Market Share

U.S. production of men's and boys' wool suits, Category 443, declined 25 percent, from 482,000 dozen in 1988 to 355,000 dozen in 1990. This trend continued in 1991, with U.S. production falling to 334,000 dozen during the year ending in March 1991. U.S. imports of men's and boys' wool suits, Category 443, increased from 167,000 dozen in 1988 to 195,000 dozen in 1990, a 17 percent increase. U.S. imports continue to increase in 1991, up eight percent in the first eight months of 1991 over the January-August 1990 level.

The domestic manufacturers share of the men's and boys' wool suit market fell from 74 percent in 1988 to 65 percent in 1990, a decline of 9 percentage points. The domestic manufacturers' market share fell to 62 percent in the year ending in March of 1991. The ratio of imports to domestic production in Category 443 has risen from 35 percent in 1988 to 55 percent in 1990, to 60 percent in the year ending in March 1991.

Duty-Paid and U.S. Producers' Price

Approximately 98 percent Category 443 imports from Brazil during the first eight months of 1991 entered the U.S. under HTSUSA numbers 6203.11.2000—

men's and boys' wool suits, other than those containing 30 percent or more by weight of silk, and 6203.12.1000—men's and boys' suits containing 36 percent or more wool or fine animal hair. These garments entered at duty-paid landed values below U.S. producers' prices for comparable suits.

Committee for the Implementation of Textile Agreements

November 15, 1991.

Commissioner of Customs,
Department of the Treasury, Washington, DC 20229.

Dear Commissioner: Under the terms of section 204 of the Agricultural Act of 1956, as amended (7 U.S.C. 1854), and the Arrangement Regarding International Trade in Textiles done at Geneva on December 20, 1973, as further extended on July 31, 1991; pursuant to the Bilateral Cotton, Wool and Man-Made Fiber Textile Agreement, effected by exchange of notes dated of September 15 and 19, 1988, as amended, between the Governments of the United States and the Federative Republic of Brazil; and in accordance with the provisions of Executive Order 11651 of March 3, 1972, as amended, you are directed to prohibit, effective on November 22, 1991, entry into the United States for consumption and withdrawal from warehouse for consumption of wool textile products in Category 443, produced or manufactured in Brazil and exported during the period which began on October 31, 1991 and extends through January 28, 1992, in excess of 25,087 numbers [1].

Textile products in Category 443 which have been exported to the United States on and after April 1, 1991 shall remain subject to the aggregate limit established in the directive dated March 19, 1991 for the period April 1, 1991 through March 31, 1992.

Textile products in Category 443 which have been exported to the United States prior to October 31, 1991 shall not be subject to the limit established in this directive.

In carrying out the above directions, the Commissioner of Customs should construe entry into the United States for consumption to include entry for consumption into the Commonwealth of Puerto Rico.

The Committee for the Implementation of Textile Agreements has determined that this action falls within the foreign affairs exception of the rulemaking provisions of 5 U.S.C. 553(a)(1).

Sincerely,

Auggie D. Tantillo,

Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc. 91-27937 Filed 11-19-91; 8:45 am]

BILLING CODE 3510-DR-F

[1] The limit has not been adjusted to account for any imports exported after October 30, 1991.

DEPARTMENT OF DEFENSE

The Joint Staff; National Defense University Board of Visitors

AGENCY: National Defense University, Department of Defense.

ACTION: Notice of meeting.

SUMMARY: The President, National Defense University has scheduled a meeting of the Board of Visitors.

DATES: The meeting will be held between 0800–1200 and 1330–1530 on 6 December 1991.

ADDRESSES: The meeting will be held in the Hill Conference Center of Theodore Roosevelt Hall, Building 61, Fort Lesley J. McNair.

FOR FURTHER INFORMATION CONTACT: The Director, University Plans and Programs, National Defense University, Forth Lesley J. McNair, Washington, DC 20319–6000. To reserve space, interested persons should phone (202) 475–1145.

SUPPLEMENTARY INFORMATION: The agenda will focus on National Defense University update, accreditation issues and relations with Congress.

Dated: November 14, 1991.

Linda M. Bynum,

OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 91-27827 Filed 11-19-91; 8:45 am]

BILLING CODE 3810-01-M

Office of the Secretary

Board of Visitors Meeting

AGENCY: Defense Systems Management College.

ACTION: Board of Visitors Meeting.

SUMMARY: A meeting of the Defense Systems Management College (DSMC) Board of Visitors will be held in Building 184, Fort Belvoir, Virginia, on Tuesday, December 10, 1991, from 0830 until 1600. The agenda will include an Operations Improvements Update, Legislative Activities Update and a review of our Outreach Program. The meeting is open to the public; however, because of limitations on space available, allocation of seating will be made on a first-come, first-serve basis. Persons desiring to attend the meeting should call Mrs. Joyce Reniere on (703) 664–4235.

Dated: November 14, 1991.

L.M. Bynum,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 91-27824 Filed 11-19-91; 8:45 am]

BILLING CODE 3810-01-M

DOD Advisory Group on Electron Devices; Advisory Committee Meeting

SUMMARY: Working Group B (Microelectronics) of the DoD Advisory Group on Electron Devices (AGED) announces a closed session meeting.

DATES: The meeting will be held at 0900, Monday, 2 December 1991.

ADDRESSES: The meeting will be held at Palisades Institute for Research Services, Inc., 2011 Crystal Drive, Suite 307, Arlington, VA 22202.

FOR FURTHER INFORMATION CONTACT: Warner Kramer, AGED Secretariat, 2011 Crystal Drive, suite 307, Arlington, Virginia 22202.

SUPPLEMENTARY INFORMATION: The mission of the Advisory Group is to provide the Under Secretary of Defense for Acquisition, the Director, Defense Advanced Research Projects Agency and the Militay Department with technical advice on the conduct of economical and effective research and development programs in the area of electron devices.

The Working Group B meeting will be limited to review of research and development programs which the military proposes to initiate with industry, universities or in their laboratories. The microelectronics area includes such programs on semiconductor materials, integrated circuits, charge coupled devices and memories. The review will include classified program details throughout.

In accordance with section 10(d) of Public Law No. 92–463, as amended, (5 U.S.C. App. II 10(d) (1988)), it has been determined that this Advisory Group meeting concerns matters listed in 5 U.S.C. 552b(c)(1) (1988), and that accordingly, this meeting will be closed to the public.

Dated: November 14, 1991.

L.M. Bynum,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 91-27825 Filed 11-79-91; 8:45 am]

BILLING CODE 3810-01-M

DOD Advisory Group on Electron Devices; Advisory Committee Meeting

SUMMARY: The DoD Advisory Group on Electron Devices (AGED) announces a closed session meeting.

DATED: The meeting will be held at 0900, Wednesday, 11 December 1991.

ADDRESSES: The meeting will be held at Palisades Institute for Research Services, Inc., 2011 Crystal Drive, One Crystal Park, suite 307, Arlington, Virginia.

FOR FURTHER INFORMATION CONTACT: Becky Terry, AGED Secretariat, 2011 Crystal Drive, One Crystal Park, suite 307, Arlington, Virginia 22202.

SUPPLEMENTARY INFORMATION: The mission of the Advisory Group is to provide the Under Secretary of Defense for Acquisition, the Director, Defense Advanced Research Projects Agency and the Military Departments with technical advice on the conduct of economical and effective research and development programs in the area of electron devices.

The AGED meeting will be limited to review of research and development programs which the Military Departments propose to initiate with industry, universities or in their laboratories. The agenda for this meeting will include programs on Radiation Hardened Devices, Microwave Tubes, Displays and Lasers. The review will include details of classified defense programs throughout.

In accordance with section 10(d) of Public Law 92–463, as amended, (5 U.S.C. App. II 10(d) (1988)), it has been determined that this Advisory Group meeting concerns matters listed in 5 U.S.C. 552b(c)(1) (1988), and that accordingly, this meeting will be closed to the public.

Dated: November 14, 1991.

L.M. Bynum,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 91–27826 Filed 11–19–91; 8:45 am]

BILLING CODE 3810–01–M

Office of the Secretary

Per Diem, Travel and Transportation Allowance Committee

AGENCY: Per Diem, Travel and Transportation Allowance Committee.

ACTION: Publication of changes in Per Diem rates.

SUMMARY: The Per Diem, Travel and Transportation Allowance Committee is publishing Civilian Personnel Per Diem Bulletin Number 157. This bulletin lists changes in per diem rates prescribed for U.S. Government employees for official travel in Alaska, Hawaii, Puerto Rico, the Northern Mariana Islands and possessions of the United States. Bulletin Number 157 is being published in the **Federal Register** to assure that travelers are paid per diem at the most current rates.

EFFECTIVE DATE: 1 October 1991 .

SUPPLEMENTARY INFORMATION: This document gives notice of changes in per diem rates prescribed by the Per Diem, Travel and Transportation Allowance Committee for non-foreign areas outside the continental United States. Distribution of Civilian Personnel Per Diem Bulletins by mail was discontinued effective June 1, 1979. Per Diem Bulletins published periodically in the **Federal Register** now constitute the only notification of change in per diem rates to agencies and establishments outside the Department of Defense.

The text of the Bulletin follows:

Dated: November 14, 1991.

L.M. Bynum,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

BILLING CODE 3810–01–M

MAXIMUM PER DIEM RATES FOR OFFICIAL TRAVEL IN ALASKA, HAWAII, THE COMMONWEALTHS OF PUERTO RICO AND THE NORTHERN MARIANA ISLANDS AND POSSESSIONS FOR THE UNITED STATES BY FEDERAL GOVERNMENT CIVILIAN EMPLOYEES

LOCALITY	MAXIMUM LODGING AMOUNT (A)	+	M&IE RATE (B)	=	MAXIMUM PER DIEM RATE (C)	EFFECTIVE DATE
ALASKA:						
ADAK 5/	$ 10		$ 34		$ 44	10-01-91
ANAKTUVUK PASS	83		57		140	12-01-90
ANCHORAGE						
05-16--09-15	137		59		196	06-01-91
09-16--05-15	79		54		133	01-01-91
ANIAK	73		36		109	07-01-91
ATQASUK	129		86		215	12-01-90
BARROW	86		73		159	06-01-91
BETHEL	70		73		143	12-01-90
BETTLES	65		45		110	12-01-90
CANTWELL	62		46		108	06-01-91
COLD BAY	71		54		125	12-01-90
COLDFOOT	75		47		122	12-01-90
CORDOVA	74		89		163	01-01-91
CRAIG	67		35		102	07-01-91
DILLINGHAM	76		38		114	12-01-90
DUTCH HARBOR-UNALASKA	91		54		145	12-01-90
EIELSON AFB						
05-15--09-15	92		62		154	07-01-91
09-16--05-14	60		59		119	01-01-91
ELMENDORF AFB						
05-16--09-15	137		59		196	06-01-91
09-16--05-15	79		54		133	01-01-91
EMMONAK	60		40		100	06-01-91
FAIRBANKS						
05-15--09-15	92		62		154	07-01-91
09-16--05-14	60		59		119	01-01-91
FALSE PASS	80		37		117	06-01-91
FT. RICHARDSON						
05-16--09-15	137		59		196	06-01-91
09-16--05-15	79		54		133	01-01-91
FT. WAINWRIGHT						
05-16--09-15	92		62		154	07-01-91
09-16--05-14	60		59		119	01-01-91
HOMER	57		61		118	01-01-91
JUNEAU	96		70		166	01-01-91
KATMAI NATIONAL PARK	89		59		148	12-01-90

MAXIMUM PER DIEM RATES FOR OFFICIAL TRAVEL IN ALASKA, HAWAII, THE COMMONWEALTHS OF PUERTO RICO AND THE NORTHERN MARIANA ISLANDS AND POSSESSIONS FOR THE UNITED STATES BY FEDERAL GOVERNMENT CIVILIAN EMPLOYEES

LOCALITY	MAXIMUM LODGING AMOUNT (A)	+	M&IE RATE (B)	=	MAXIMUM PER DIEM RATE (C)	EFFECTIVE DATE
ALASKA: (CONT'D)						
KENAI-SOLDOTNA						
05-01--09-30	86		70		156	05-01-91
10-01--04-30	64		70		134	01-01-91
KETCHIKAN	$ 81		$ 75		$ 156	01-01-91
KING SALMON 3/	75		59		134	12-01-90
KLAWOCK	75		36		111	07-01-91
KODIAK	68		61		129	01-01-91
KOTZEBUE	133		58		191	06-01-91
KUPARUK OILFIELD	75		52		127	12-01-90
METLAKATLA	79		44		123	07-01-91
MURPHY DOME						
05-15--09-15	92		62		154	07-01-91
09-16--05-14	60		59		119	01-01-91
NELSON LAGOON	102		39		141	06-01-91
NOATAK	77		66		143	12-01-90
NOME	61		75		136	01-01-91
NOORVIK	77		66		143	12-01-90
PETERSBURG	61		54		115	01-01-91
POINT HOPE	99		61		160	12-01-90
POINT LAY	106		73		179	12-01-90
PRUDHOE BAY-DEADHORSE	64		57		121	12-01-90
SAND POINT	75		36		111	07-01-91
SEWARD						
05-01--09-30	79		52		131	07-01-91
10-01--04-30	48		49		97	10-01-91
SHUNGNAK	77		66		143	12-01-90
SITKA-MT. EDGECOMBE	65		63		128	01-01-91
SKAGWAY	81		75		156	01-01-91
SPRUCE CAPE	68		61		129	01-01-91
ST. GEORGE	100		39		139	06-01-91
ST. MARY'S	60		40		100	12-01-90
ST PAUL ISLAND	81		34		115	12-01-90
TANANA	61		75		136	01-01-91
TOK	59		59		118	01-01-91
UMIAT	97		63		160	12-01-90
UNALAKLEET	58		47		105	12-01-90

MAXIMUM PER DIEM RATES FOR OFFICIAL TRAVEL IN ALASKA, HAWAII, THE COMMONWEALTHS OF PUERTO RICO AND THE NORTHERN MARIANA ISLANDS AND POSSESSIONS FOR THE UNITED STATES BY FEDERAL GOVERNMENT CIVILIAN EMPLOYEES

LOCALITY	MAXIMUM LODGING AMOUNT (A) +	M&IE RATE (B) =	MAXIMUM PER DIEM RATE (C)	EFFECTIVE DATE
ALASKA: (CONT'D)				
VALDEZ				
05-01--10-31	116	66	182	05-01-91
11-01--04-30	85	63	148	01-01-91
WAINWRIGHT	90	75	165	12-01-90
WALKER LAKE	82	54	136	12-01-90
WRANGELL	81	75	156	01-01-91
YAKUTAT	70	40	110	12-01-90
OTHER 3,4	$ 63	$ 47	$110	07-01-91
AMERICAN SAMOA	55	47	102	12-01-90
GUAM	99	59	158	12-01-90
HAWAII:				
ISLAND OF HAWAII: HILO	60	38	98	06-01-91
ISLAND OF HAWAII: OTHER	106	43	149	06-01-91
ISLAND OF KAUAI	112	48	160	06-01-91
ISLAND OF KURE 1/		13	13	12-01-90
ISLAND OF MAUI: KIHEI				
04-01--12-19	85	50	135	12-01-90
12-20--03-31	97	50	147	12-20-90
ISLAND OF MAUI: OTHER	62	50	112	06-01-91
ISLAND OF OAHU	95	42	137	06-01-91
OTHER	59	47	106	12-01-90
JOHNSTON ATOLL 2/	18	18	36	10-01-91
MIDWAY ISLANDS 1/		13	13	12-01-90
NORTHERN MARIANA ISLANDS:				
ROTA	45	31	76	12-01-90
SAIPAN	68	47	115	12-01-90
TINIAN	44	24	68	12-01-90
OTHER	20	13	33	12-01-90
PUERTO RICO:				
BAYAMON				
04-16--12-14	93	90	183	07-01-91
12-15--04-15	116	92	208	12-15-91
CAROLINA				
04-16--12-14	93	90	183	07-01-91
12-15--04-15	116	92	208	12-15-91
FAJARDO (INCLUDING LUQUILLO)				
04-16--12-14	93	90	183	07-01-91
12-15--04-15	116	92	208	12-15-91

MAXIMUM PER DIEM RATES FOR OFFICIAL TRAVEL IN ALASKA, HAWAII, THE COMMONWEALTHS OF PUERTO RICO AND THE NORTHERN MARIANA ISLANDS AND POSSESSIONS FOR THE UNITED STATES BY FEDERAL GOVERNMENT CIVILIAN EMPLOYEES

LOCALITY	MAXIMUM LODGING AMOUNT (A)	+	M&IE RATE (B)	=	MAXIMUM PER DIEM RATE (C)	EFFECTIVE DATE
PUERTO RICO: (CONT'D)						
FT. BUCHANAN (INCLUDING GSA SERV CTR, GUAYNABO)						
04-16--12-14	93		90		183	07-01-91
12-15--04-15	116		92		208	12-15-91
MAYAGUEZ	84		58		142	07-01-91
PONCE	113		90		203	07-01-91
ROOSEVELT ROADS						
04-16--12-14	66		61		127	07-01-91
12-15--04-15	102		64		166	12-15-91
SABANA SECA						
04-16--12-14	$ 93		$ 90		$183	07-01-91
12-15--04-15	116		92		208	12-15-91
SAN JUAN (INCLUDING SAN JUAN COAST GUARD UNITS)						
04-16--12-14	93		90		183	07-01-91
12-15--04-15	116		92		208	12-15-91
OTHER	63		63		126	07-01-91
VIRGIN ISLANDS OF THE U.S.						
05-01--11-30	95		63		158	05-01-91
12-01--04-30	128		66		194	12-01-90
WAKE ISLAND 2/	4		17		21	12-01-90
ALL OTHER LOCALITIES	20		13		33	12-01-90

FOOTNOTES

1/ Commercial facilities are not available. The meal and incidental expense rate covers charges for meals in available facilities plus an additional allowance for incidental expenses and will be increased by the amount paid for Government quarters by the traveler.

2/ Commercial facilities are not available. Only Government-owned and contractor operated quarters and mess are available at this locality. This per diem rate is the amount necessary to defray the cost of lodging, meals and incidental expenses.

MAXIMUM PER DIEM RATES FOR OFFICIAL TRAVEL IN ALASKA, HAWAII, THE COMMONWEALTHS OF PUERTO RICO AND THE NORTHERN MARIANA ISLANDS AND POSSESSIONS FOR THE UNITED STATES BY FEDERAL GOVERNMENT CIVILIAN EMPLOYEES

3/ On any day when US Government or contractor quarters are available and US Government or contractor messing facilities are used, a meal and incidental expense rate of $16.25 is prescribed to cover meals and incidental expenses at Shemya AFB and the following Air Force Stations: Cape Lisburne, Cape Newnenham, Cape Romanzof, Clear, Fort Yukon, Galena, Indian Mountain, King Salmon, Sparrevohn, Tatalina and Tin City. This rate will be increased by the amount paid for US Government or contractor quarters and by $4 for each meal procured at a commercial facility. The rates of per diem prescribed herein apply from 0001 on the day after arrival through 2400 on the day prior to the day of departure.

4/ On any day when US Government or contractor quarters are available and US Government or contractor messing facilities are used, a meal and incidental expense rate of $34 is prescribed to cover meals and incidental expenses at Amchitka Island, Alaska. This rate will be increased by the amount paid for US Government or contractor quarters and by $10 for each meal procured at a commercial facility. The rates of per diem prescribed herein apply from 0001 on the day after arrival through 2400 on the day prior to the day of departure.

5/ On any day when US Government or contractor quarters are available and US Government or contractor messing facilities are used, a meal and incidental expense rate of $25 is prescribed instead of the rate prescribed in the table. This rate will be increased by the amount paid for US Government or contractor quarters.

[FR Doc. 91-27828 Filed 11-19-91; 8:45 am]
BILLING CODE 3810-01-C

Department of the Air Force

USAF Scientific Advisory Board Meeting

The USAF Scientific Advisory Board's Committee on Technology to Support Force Projection: Global Reach—Global Power will meet on 5–6 December 1991, at The ANSER Corporation, Crystal Gateway 3, 1215 Jefferson Davis Highway, Arlington, VA, from 8 a.m. to 5 p.m.

The purpose of this meeting is to review the tasking, receive briefings and gather information for the study.

The meeting will be closed to the public in accordance with section 552b(c) of title 5, United States Code, specifically subparagraphs (1) and (4) thereof.

For further information, contact the Scientific Advisory Board Secretariat at (703) 697–4811.

Patsy J. Conner,

Air Force Federal Register, Liaison Officer.

[FR Doc. 91–27927 Filed 11–19–91; 8:45 am]

BILLING CODE 3910–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. ER91–448–000]

LTV Steel Mining Co.; Issuance of Letter Order and Comment Period

November 14, 1991.

Take notice that on November 1, 1991, the Director, Division of Applications, Office of Electric Power Regulation, pursuant to delegated authority issued a letter order accepting for filing a 1980 Interconnection Agreement between LTV Steel Mining Company and Minnesota Power & Light Company as well as various amendments to the interconnection agreement. In addition, the order granted a waiver of certain Commission regulations along with certain authorizations, subject to the same conditions provided for in St. Joe Minerals Corporation, 21 FERC ¶61,323, orders on rehearing, 22 FERC ¶61,211, 23 FERC ¶61,208 and Cliffs Electric Service Company, *et al.*, (Cliffs) 32 FERC ¶61,372, except with respect to part 33 and part 46.

One of the authorizations involves a blanket approval of issuances of securities and assumptions of liabilities conditioned upon receiving no protests within 30 days of the date of the letter order (See Cliffs). Accordingly, any person desiring to be heard or to protest the Commission's blanket approval of issuances of securities or assumptions of liability should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214. Notice is hereby given that the deadline for filing a motion to intervene or protest, as set forth above, is December 2, 1991.

Absent a request for hearing within the aforementioned period, LTV Steel Mining Company is authorized to issue securities and assume obligations or liabilities as guarantor, endorser, surety, or otherwise in respect of any security of another person; provided that such issue or assumption is for some lawful object within the corporate purposes of the applicant, and compatible with the public interest, and is reasonably necessary or appropriate for such purposes.

Copies of the full text of the letter order are available from the Commission's Public Reference Branch, room 3308, 941 North Capitol Street, NE., Washington, DC 20426.

Lois D. Cashell,

Secretary.

[FR Doc. 91–27844 Filed 11–19–91; 8:45 am]

BILLING CODE 6717–01–M

[Docket Nos. ES92–9–000, et al.]

Rockland Electric Co., et al., Electric Rate, Small Power Production, and Interlocking Directorate Filings

November 13, 1991.

Take notice that the following filings have been made with the Commission:

1. Rockland Electric Company

[Docket No. ES92–9–000]

Take notice that on November 1, 1991, Rockland Electric Company filed an application with the Federal Energy Regulatory Commission pursuant to section 204 of the Federal Power Act seeking authorization to issue not more than $10 million of short-term unsecured obligations on or before December 31, 1993, with a final maturity date no later than December 31, 1994.

Comment date: December 2, 1991 in accordance with Standard Paragraph E at the end of this notice.

2. Sunnyside Cogeneration Associates

[Docket No. QF86–556–003]

On October 25, 1991, Sunnyside Cogeneration Associates (Applicant), of P.O. Box 58087, Salt Lake City, Utah 84158–0087, submitted for filing an application for recertification of a facility as a qualifying small power production facility pursuant to § 292.207 of the Commission's Regulations. No determination has been made that the submittal constitutes a complete filing.

The small power production facility will be located near the town of Sunnside, Utah. The facility will consist of a circulating fluidized bed boiler and an extraction/condensing steam turbine generating unit. The primary energy source will be bituminous coal refuse. The net electric power production capacity of the facility will be approximately 52 NM Installation was scheduled to begin in June 1991.

The certification of the facility was originally issued on April 24, 1987 (39 FERC ¶ 62,091 (1987)) and recertifications were issued on December 27, 1989 (49 FERC ¶ 62,288 (1989)) and on October 10, 1990 (53 FERC ¶ 62,029 (1990)). The instant recertification is requested by the Applicant to change the facility's status from a qualifying cogeneration facility to a qualifying small power production facility. All other facility characteristics remain unchanged as described in the previous recertification.

Comment date: December 20, 1991, in accordance with Standard Paragraph E at the end of this notice.

Standard Paragraphs

E. Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). All such motions or protests should be filed on or before the comment date. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 91–27843 Filed 11–19–91; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. JD92-00926T Texas-45]

State of Texas; NGPA Notice of Determination by Jurisdictional Agency Designating Tight Formation

November 13, 1991.

Take notice that on October 28, 1991, the Railroad Commission of Texas (Texas) submitted the above-referenced notice of determination pursuant to § 271.703(c)(3) of the Commission's regulations, that the Pittsburg Formation in a portion of Wood County, Texas, qualifies as a tight formation under section 107(b) of the Natural Gas Policy Act of 1978 (NGPA). The notice covers approximately 300 acres in Wood County and consists of all of the following acreage:

Lease name	Acres	Survey name	Abstract
Brogdon	52.3	W. H. Secrest	A-523
C. C. Chappell, Est.	52.4	W. H. Secrest	A-523
Wofford Cain	79.8	W. H. Secrest	A-523
Mrs. E. F. Chappell, et al.	106.2	John Polk	A-458
Brogdon Heirs.	13.4	John Polk	A-458

The notice of determination also contains Texas' findings that the referenced portion of the Pittsburg Formation meets the requirements of the Commission's regulations set forth in 18 CFR part 271.

The application for determination is available for inspection, except for material which is confidential under 18 CFR 275.206, at the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426. Persons objecting to the determination may file a protest, in accordance with 18 CFR 275.203 and 275.204, within 20 days after the date this notice is issued by the Commission.

Lois D. Cashell,

Secretary.

[FR Doc. 91-27854 Filed 11-19-91; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. JD92-00927T Texas-10 Addition 10]

State of Texas; NGPA Notice of Determination by Jurisdictional Agency Designating Tight Formation

November 13, 1991.

Take notice that on October 28, 1991, the Railroad Commission of Texas (Texas) submitted the above-referenced notice of determination pursuant to § 271.703(c)(3) of the Commission's regulations, that the Edwards Limestone Formation in portions of Bee and Live Oak Counties, Texas, qualifies as a tight formation under section 107(b) of the Natural Gas Policy Act of 1978 (NGPA). The designated area includes the entire productive area of the Pawnee (Edwards) Field and covers approximately 9,700 acres. The designated area covers all of: the Buttrill Survey (A-514); the B.S. & F. Survey (A-128); and the W.S. Colston Survey (A-143); plus portions of the F.B. Malone Survey (A-1247); the Key West IRR Co. Survey (A-383), the J.P. Smith Survey (A-308), the W.A. Buttrill Survey (A-515), the Jones Heald Survey (A-183), the Marcelo Alcort Survey (A-70), the L.B. Leblew Survey (A-1204), the F.J. Chessman Survey (A-144), the Josiah Taylor Survey (A-438), the B.S. & F. Survey (A-126), the H. Casanova Survey, the B.S. & F. Survey (A-127), the L.M. Hitchcock Survey (A-224), and the E.L. & R.R. Survey (A-45).

The notice of determination also contains Texas' findings that the referenced portion of the Edwards Limestone Formation meets the requirements of the Commission's regulations set forth in 18 CFR part 271.

The application for determination is available for inspection, except for material which is confidential under 18 CFR 275.206, at the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426. Persons objecting to the determination may file a protest, in accordance with 18 CFR 275.203 and 275.204, within 20 days after the date this notice is issued by the Commission.

Lois D. Cashell,

Secretary.

[FR Doc. 91-27855 Filed 11-19-91; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. JD92-00929T Texas-10 Addition 11]

State of Texas; NGPA Notice of Determination by Jurisdictional Agency Designating Tight Formation

November 13, 1991.

Take notice that on October 29, 1991, the Railroad Commission of Texas (Texas) submitted the above-referenced notice of determination pursuant to § 271.703(c)(3) of the Commission's regulations, that the Edwards Limestone Formation in a portion of LaSalle County, Texas, qualifies as a tight formation under section 107(b) of the Natural Gas Policy Act of 1978 (NGPA). The designated area covers all of the following surveys in LaSalle County: James Bridges Survey #5 (A-71); G.C. & S.F.R.R. Survey #1 (A-928), Survey #9 (A-924) and Survey #11 (A-923); C.J. Tannehill Survey #10 (A-1600) and Survey #12 (A-1601); L. Mendes Survey #8 (A-1715); Ladislo Mendes Survey #2 (A-1716); Jose M. Garcia Survey #2 (A-1508) and Survey #2½ (A-1175); H. & G.N.R.R. Survey #1 (A-310); A. Frederick Survey #4 (A-167); Frank W. Johnson Survey #11 (A-1399); J.H. Collard Survey #3 (A-973); Albert Martin Survey #1900 (A-1853), Survey #1901 (A-1852), and Survey #1902 (A-1851); Juan Saiz Survey #2 (A-1518); A. Martin Survey #1903 (A-1850); B.B.B. & C.R.R. Survey #272 (A-91) and Survey #273 (A-92); Felix Martinez Survey #275 (A-574); August Weinert Survey #277 (A-697); Jose M. Rodriquez Survey #276 (A-638); O. Wolf Survey #3 (A-699) and Wm. M. Ross #274 (A-639).

The notice of determination also contains Texas' findings that the referenced portion of the Edwards Limestone Formation meets the requirements of the Commission's regulations set forth in 18 CFR part 271.

The application for determination is available for inspection, except for material which is confidential under 18 CFR 275.206, at the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington DC 20426. Persons objecting to the determination may file a protest, in accordance with 18 CFR 275.203 and 275.204, within 20 days after the date this notice is issued by the Commission.

Lois D. Cashell,

Secretary.

[FR Doc. 91-27856 Filed 11-19-91; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. JD92-00930T Texas-46]

State of Texas; NGPA Notice of Determination by Jurisdictional Agency Designating Tight Formation

November 13, 1991.

Take notice that on November 1, 1991, the Railroad Commission of Texas (Texas) submitted the above-referenced notice of determination pursuant to § 271.703(c)(3) of the Commission's regulations, that the Fandango Formation in a portion of Duval County, Texas, qualifies as a tight formation under section 107(b) of the Natural Gas Policy Act of 1978 (NGPA). The notice covers approximately 8,400 acres in Duval County and consists of all of: the B.S. & F. Survey (A-69); the G.B. & C.N.G.R.R. Survey (A-797); the C. & M.R.R. Survey (A-959); the G.B. & C.N.R.R. Survey (A-962); the J.J. White Survey (A-1626); the Pedro Hernandez Survey (A-1743); the J.J. White Survey

(A–1800); the Bernebe Elizondo Survey (A–1836); the Anastacio Nunez Survey (A–1878); the Gregorio Ruiz Survey (A–1922); the Irene G. Sutherland Survey (A–2046); the E.R. Thomas Survey (A–2094); plus the west half of the B.S. & F. Survey (A–92); the southeast quarter of the G.B. & C.N.G.R.R. Survey (A–723); the north half of the H.E. & W.T.R.R. (A–810); the west half of the J.J. White (A–1799); and the southeast halves of the J.A. Cano Survey (A–1822) and the J.A. Cano Survey (A–1823).

The notice of determination also contains Texas' findings that the referenced portion of the Fandango Formation meets the requirements of the Commission's regulations set forth in 18 CFR part 271.

The application for determination is available for inspection, except for material which is confidential under 18 CFR 275.206, at the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426. Persons objecting to the determination may file a protest, in accordance with 18 CFR 275.203 and 275.204, within 20 days after the date this notice is issued by the Commission.

Lois D. Cashell,

Secretary.

[FR Doc. 91–27857 Filed 11–19–91; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. CP88–185–011]

Algonquin Gas Transmission Co.; Notice of Petition to Amend

November 14, 1991.

Take notice that on November 13, 1991, Algonquin Gas Transmission Company (Algonquin), 1284 Soldier Field Road, Boston, Massachusetts 02135, filed in Docket No. CP88–185–011, an application seeking an amended certificate pursuant to section 7(c) of the Natural Gas Act and request for expedited action, in order to provide interim service by means of alternative arrangements from those authorized in the Commission's July 2, 1990, and November 30, 1990, Orders in this proceeding, all as more fully set forth in Algonquin's application for amended certificate, which is on file with the Commission and open to public inspection.

Algonquin states that under the Commission's Order Issuing Certificates and Approving Abandonments issued July 2, 1990, (52 FERC ¶61,001), it was authorized to construct facilities and provide up to 67,078 MMBtu per day of transportation service to six local distribution company customers under Rate Schedule FTP in two stages: Phase I to commence on November 1, 1990; and Phase II to commence on November 1, 1991. Algonquin states that subsequently, the Commission on November 30, 1990, authorized Algonquin to alter the schedule of service and delivery points for service provided prior to November 1, 1991, (53 FERC ¶61,291).

In January 1991, Boston Gas Company (Boston Gas), one of Algonquin's major customers under Rate Schedule FTP, advised Algonquin that it desired to reduce service under Rate Schedule FTP by 18,608 MMBtu per day, or by approximately 28% of the entire volume of service for the project. As a result, on March 5, 1991, Algonquin filed an application for amended certificate in Docket No. CP88–185–007 asking the Commission for authority to implement the reduction in service and to change certain facilities in light of the reduction in service, including substitution of a meter station and delivery point for Boston Gas at Medford, Massachusetts, in lieu of the planned meter station and delivery point at Malden, Massachusetts.

The authorizations requested in Algonquin's March 5, 1991 application in Docket No. CP88–185–007 have not yet been granted. As a result, Algonquin states that it will not be able to commence deliveries to Boston Gas at Medford, Massachusetts on November 1, 1991, and it will not be able to provide full Phase II service to Boston Gas in the manner contemplated, although it will be prepared to provide full Phase II service to its other five distribution customers under Rate Schedule FTP.

Algonquin states that to permit its customers to have the benefit of the full level of service this winter, it has entered into alternative arrangements to deliver full contract quantities to Boston Gas, based on the reduced entitlement requested by Boston Gas in January, 1991, at alternative delivery points and at existing service agreement pressures. Specifically, Algonquin proposes to make deliveries to Boston Gas as follows:

Delivery point	Maximum daily transportation quantity (MMBtu)
Everett, MA	10,000
East Braintree, MA	8,242
Wellesley, MA	2,259
Total	20,501

Algonquin proposes to deliver full Phase II volumes to its other customers under Rate Schedule FTP, as originally authorized in the July 2, 1990 Order.

Algonquin proposes to charge an interim initial rate commencing December 1, 1991, to reflect the current investment in facilities and the level of service to be provided. According to Algonquin, the interim rate utilizes the same methodology employed to develop the initial rates set out in the Commission's June 21, 1991, order on rehearing in this proceeding, (56 FERC ¶61,482). Algonquin provided the following summary of the rate it proposes to put into effect on December 1, 1991, as compared to the Phase II rate contemplated in Algonquin's March 5, 1991, Application for Amended Certificate in Docket CP88–185–007, which incorporates the same rate approved in the Commission's June 21, 1991, Order on Rehearing:

Rates/MMBtu	March 5, 1991 proposed amendment	December 1, 1991 interim arrangement
Monthly demand charge	$13.9812	$12.7380
Overrun charge	0.4593	0.4188
Facility costs ($ Million)	37.5	34.8
Levels of service (MMBtu/d)	48,470	48,470

Algonquin states that since the interim rate is less than the initial rate approved for Phase II service in the Commission's June 21, 1991, Order on Rehearing, the interim rate provides a benefit to Algonquin's customers under Rate Schedule FTP by affording them full service at the Phase II levels, but at a lower price.

Algonquin states that in response to customer requirements there is a critical need to provide service under Rate Schedule FTP this winter, and as a result, Algonquin asks that the Commission approve its application on or before November 30, 1991, so that service can commence December 1, 1991.

Any person desiring to be heard or to make any protest with reference to said petition to amend should on or before November 22, 1991, file with the Federal Energy Regulatory Commission, Washington, DC 20426, a motion to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 384.214 or 385.211) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants

parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a motion to intervene in accordance with the Commission's Rules.

Lois D. Cashell,

Secretary.

[FR Doc. 91-27845 Filed 11-19-91; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. TA92-1-4-000]

Granite State Gas Transmission, Inc.; Proposed Changes in Rates

November 13, 1991.

Take notice that on November 7, 1991, Granite State Gas Transmission, Inc. (Granite State), 300 Friberg Parkway, Westborough, Massachusetts 01581-5039, tendered for filing with the Commission the revised tariff sheets listed below in its FERC Gas Tariff, Second Revised Volume No. 1, containing changes in rates for effectiveness January 1, 1992:

Purchased Gas Cost Adjustment

Ninth Revised Sixth Revised Sheet No. 21

Gas Research Institute Surcharge

Second Revised Sheet No. 23
First Revised Sheet No. 138

According to Granite State, its filing comprises its annual purchased gas cost adjustment filing, including revised rates based on projected gas costs and sales for the first quarter of 1992. Granite State further states that the revised rates include a new negative deferred gas cost surcharge adjustment and a revised Transportation Cost Adjustment based on projected sales for the year ending December 31, 1992.

Additionally, according to Granite State, the revised tariff sheets reflect the Gas Research Institute (GRI) surcharge of $0.0147 per dekatherm, effective January 1, 1992, approved by the Commission in Docket No. RP91-170-000. Granite State further states that the GRI surcharge will be applicable to purchases of Canadian gas from a new supplier, Direct Energy Marketing, Limited, as a result of the issuance of a temporary authorization issued by the Director of the Office of Pipeline and Producer Regulation in Docket No. CP91-2373 on October 31, 1991.

It is stated that the proposed rate changes are applicable to Granite State's jurisdictional services rendered to Bay State Gas Company and Northern Utilities, Inc. Granite State further states that copies of its filing were served upon its customers and the regulatory commissions of the States of Maine, Massachusetts and New Hampshire.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426 in accordance with rules 211 and 214 of the Commission's Rules of Practice and Procedures (18 CFR 385.211 and 385.214). All such motions or protests should be filed on or before November 27, 1991. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party to the proceeding or to participate as a party in any hearing therein must file a motion to intervene in accordance with the Commission's Rules. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 91-27846 Filed 11-19-91; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. RP89-186-007]

Great Lakes Gas Transmission Limited Partnership; Proposed Changes in FERC Gas Tariff

November 13, 1991.

Take notice that Great Lakes Gas Transmission Limited Partnership (Great Lakes) on October 23, 1991 tendered filing revised tariff sheets to its FERC Gas Tariff to be effective May 1, 1990.

Great Lakes states that the tariff sheets are being filed in compliance with the Commission's order issued October 22, 1991 in Docket No. RP89-186-006, *et al.* and the Stipulation and Agreement in Settlement of Rate Proceedings approved by such order.

Great Lakes states that copies of the filing were served on all of Great Lakes' customers and the Public Service Commissions of Minnesota, Michigan and Wisconsin.

Any person desiring to protest said filing should file a protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with rule 211 of the Commission's Rules of Practice and Procedure 18 CFR 385.211. All such protests should be filed on or before November 20, 1991. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 91-27847 Filed 11-19-91; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. RP86-35-017]

Great Lakes Gas Transmission Limited Partnership; Report of Refunds

November 13, 1991.

Take notice that on October 23, 1991, Great Lakes Gas Transmission Limited Partnership (Great Lakes) tendered for filing with the Federal Energy Regulatory Commission (Commission) its refund report. Great Lakes states that the refund is being made in compliance with Ordering Paragraph (C) of the Commission's November 17, 1988 order in Docket No. RP86-35-000, *et al.*

Great Lakes states that the refund report shows the calculation of refunds of minimum bills collected pursuant to paragraph 4 of article III of the Stipulation and Agreement approved by the Commission's order dated April 6, 1988 and the Commission's order issued November 17, 1988 in Docket No. RP86-35, *et al.* Great Lakes further states that the refunds, with interest as required by § 154.67 of the Commission's Regulations were made to Great Lakes' customers by wire transfer on January 20, 1989.

Great Lakes states that copies of the refund report are being served upon Great Lakes' customers that received the refunds and the Public Service Commissions of Minnesota, Wisconsin and Michigan.

Any person desiring to protest said filing should file a protest with the Federal Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with rule 211 of the Commission's rules of Practice and Procedure 18 CFR 385.211. All such protests should be filed on or before November 20, 1991. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 91-27848 Filed 11-19-91; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. RP92-1-001]

Northern Natural Gas Co.; Proposed Changes in FERC Gas Tariff

November 13, 1991.

Take notice that on November 7, 1991, Northern Natural Gas Company ("Northern"), tendered for filing, as part of Northern's FERC Gas Tariff, Third Revised Volume No. 1, the following tariff sheets:

Third Revised Volume No. 1

Substitute Original Sheet No. 4G.4
Substitute Original Sheet No. 4G.5

Northern is requesting special permission from the Commission pursuant to 18 CFR 154.66(b) to revise Original Sheet Nos. 4G.4 and 4G.5 which have been suspended by the Commission and for a waiver of 18 CFR 154.51 so that he effective date of the tariffs would be December 1, 1991. Northern states that the revised tariff sheets are being submitted in response to requests by customers to clarify the rates for the Mileage Indicator Districts matrix contained on Original Sheet Nos. 4G.4 and 4G.5 as well as to correct mathematical errors.

Northern further states that copies of the filing have been mailed to each of its customers/shippers and interested state commissions.

Any person desiring to protest said filing should file a protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with rule 211 of the Commission's Rules of Practice and Procedure 18 CFR 385.211. All such protests should be filed on or before November 20, 1991. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Secretary

[FR Doc. 91-27849 Filed 11-19-91; 8:45 am]

BILLING CODE 6717-01-M

[Docket Nos. RP89-224-000, RP89-203-000, RP90-139-000, and RP91-69-000]

Southern Natural Gas Co.; Informal Settlement Conference

November 13, 1991.

Take notice that an informal settlement conference will be convened in this proceeding on November 25, 1991, at 11 a.m., at the offices of the Federal Energy Regulatory Commission, 810 First Street, NE., Washington, DC, for the purpose of exploring the possible settlement of the above-referenced dockets.

Any party, as defined by 18 CFR 385.102(c), or any participant as defined in 18 CFR 385.102(b), is invited to attend. Persons wishing to become a party must move to intervene and receive intervenor status pursuant to the Commission's regulations (18 CFR 385.214).

For additional information, contact Betsy R. Carr at (202) 208-1240 or James A. Pederson at (202) 208-2158.

Lois D. Cashell,

Secretary.

[FR Doc. 91-27850 Filed 11-19-91; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. CP92-140-000]

Southern Natural Gas Co.; Application

November 12, 1991.

Take notice that on October 31, 1991, Southern Natural Gas Company (Southern), Post Office Box 2563, Birmingham, Alabama 35202-2563, filed in Docket No. CP92-140-000 an application pursuant to section 7(b) of the Natural Gas Act for permission and approval to abandon a portion of the Contract Demand allocated to South Georgia Natural Gas Company (South Georgia), all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Southern states that it currently provides service to South Georgia for the sale and purchase of natural gas in quantities of up to 56,216 Mcf per day. Southern further states that two additional customers on South Georgia's system have converted a portion of their Maximum Daily Quantities to firm transportation and South Georgia has requested a reduction of its Contract Demand from Southern to coincide with the reductions on its own system. Southern states that it therefore, seeks authority to abandon 985 Mcf per day of Contract Demand sold to South Georgia effective October 1, 1991.

Pursuant to 18 CFR 284.10(d)(2) the exercise of the customer's option to convert constitutes consent to the proposed abandonment. Accordingly, any person desiring to be heard or any person, other than the converting customers, desiring to make any protest with reference to said application should on or before December 3, 1991, file with the Federal Energy Regulatory Commission, Washington, DC 20426, a motion to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.214 or 385.211) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a motion to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Energy Regulatory Commission by section 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission or its designee on this application if no motion to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that permission and approval for the proposed abandonment are required by the public convenience and necessity. If a motion for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Southern to appear or be represented at the hearing.

Lois D. Cashell,

Secretary.

[FR Doc. 91-27851 Filed 11-19-91; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. TM92-2-43-000]

Williams Natural Gas Co; Proposed Changes in FERC Gas Tariff

November 13, 1991.

Take notice that Williams Natural Gas Company (WNG) On November 1, 1991, tendered for filing Second Revised Sheet Nos. 7 and 7A to its FERC Gas Tariff, First Revised Volume No. 1 to be effected December 1, 1991.

WNG states that the above referenced tariff sheets are being filed to track the Order Nos. 528 and 528-A filing made by Transwestern Pipeline Company in Docket No. RP91-215 on August 30, 1991 and accepted by Commission order dated September 27, 1991.

WNG states that copies of its filing were served on all jurisdictional purchasers and interested State commissions.

Any person desiring to be heard or to protest said filing should file a motion to

intervene or a protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with §§ 385.214 and 385.211 of the Commission's Rules and Regulations. All such motions or protests should be filed on or before November 20, 1991. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 91-27852 Filed 11-19-91; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. RP91-152-006]

Williams Natural Gas Co., Proposed Changes in FERC Gas Tariff

November 13, 1991.

Take notice that Williams Natural Gas Company (WNG) on November 7, 1991 tendered for filing Fifth Substitute Fourth Revised Sheet No. 9 to its FERC Gas Tariff, First Revised Volume No. 1.

WNG states that the proposed effective date of this filing is November 7, 1991.

WNG states that it made a filing on November 6, 1991 in the above referenced docket to reflect an interim rate reduction. The IDDS Commodity Rate was misstated in that filing. The instant filing is being made to correct the misstated rate.

WNG states that a copy of its filing was served on all participants in the above referenced docket.

Any person desiring to protest said filing should file a protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with 18 CFR 385.211 of the Commission's Rules and Regulations. All such protests should be filed on or before November 20, 1991. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Copies of this filing are on file with the Commission and are available for public inspection in the Public Reference Room.

Lois D. Cashell,

Secretary.

[FR Doc. 91-27853 Filed 11-19-91; 8:45 am]

BILLING CODE 6717-01-M

Office of Hearings and Appeals

Issuance of Proposed Decision and Order During the Week of October 7 Through October 11, 1991

During the week of October 7 through October 11, 1991, the proposed decisions and orders summarized below were issued by the Office of Hearings and Appeals of the Department of Energy with regard to applications for exception.

Under the procedural regulations that apply to exception proceedings (10 CFR part 205, subpart D), any person who will be aggrieved by the issuance of a proposed decision and order in final form may file a written notice of objection within ten days of service. For purposes of the procedural regulations, the date of service of notice is deemed to be the date of publication of this Notice or the date an aggrieved person receives actual notice, whichever occurs first.

The procedural regulations provide that an aggrieved party who fails to file a Notice of Objection within the time period specified in the regulations will be deemed to consent to the issuance of the proposed decision and order in final form. An aggrieved party who wishes to contest a determination made in a proposed decision and order must also file a detailed statement of objections within 30 days of the date of service of the proposed decision and order. In the statement of objections, the aggrieved party must specify each issue of fact or law that it intends to contest in any further proceeding involving the exception matter.

Copies of the full text of these proposed decisions and orders are available in the Public Reference Room of the Office of Hearings and Appeals, room 1E-234, Forrestall Building, 1000 Independence Avenue SW., Washington, DC 20585, Monday through Friday, between the hours of 1 p.m. and 5 p.m., except federal holidays.

Dated: November 14, 1991.

George B. Breznay,

Director, Office of Hearings and Appeals.

Local Oil Company, Anoka, MN, LEE-0025

On August 6, 1991, Local Oil Company filed an Application for Exception from the Energy Information Administration (EIA) reporting requirements. The exception request, if granted, would have relieved Local Oil Company of the requirement to prepare and file Form EIA-782B, entitled "Reseller/Retailers' Monthly Petroleum Product Sales Report." On October 9, 1991, the Department of Energy issued a Proposed Decision and Order which determined that the exception request be denied.

Quad States Distributing, Inc., Miami, Oklahoma, LEE-0026

On August 26, 1991, Quad States Distributing, Inc. filed an Application for Exception from the Energy Information Administration (EIA) reporting requirements. The firm sought relief from filing Form EIA-782B, entitled "Reseller/Retailers' Monthly Petroleum Product Sales Reports." On October 8, 1991, the Office of Hearings and Appeals issued a Proposed Decision and Order which determined that exception relief be denied.

[FR Doc. 91-27925 Filed 11-19-91; 8:45 am]

BILLING CODE 6450-01-M

ENVIRONMENTAL PROTECTION AGENCY

[FRL-4031-9]

Agency Information Collection Activities Under OMB Review

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: In compliance with the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*), this notice announces that the Information Collection Request (ICR) abstracted below has been forwarded to the Office of Management and Budget (OMB) for review and comment. The ICR describes the nature of the information collection and its expected cost and burden; where appropriate, it includes the actual data collection instrument.

DATES: Comments must be submitted on or before December 20, 1991.

FOR FURTHER INFORMATION CONTACT: Sandy Farmer at EPA, (202) 260-2740.

SUPPLEMENTARY INFORMATION:

Office of Air and Radiation

Title: New Source Performance Standards (NSPS) for Petroleum Refinery Wastewater Systems (subpart QQQ)—Reporting and Recordkeeping (EPA ICR # 1136.03; OMB #2060-0172). This is a request for renewal of a currently approved information collection.

Abstract: Owners or operators of petroleum refinery wastewater systems must notify EPA or the delegated State regulatory authority of construction, modification, startup, shutdown, malfunction, and the date and results of the initial performance test. Owners or operators of petroleum refinery

wastewater systems are required to keep records of design and operating specifications of all equipment installed to comply with the standards such as water seals, covers, roof seals and control devices. Owners or operators must submit semiannual certification reports indicating that all emission detection tests and visual inspections required by the standards are carried out. EPA or the delegated State regulatory authority uses this information to ensure that equipment design and operating specifications are met.

Burden Statement: The public reporting burden for this collection of information is estimated to average 25.6 hours per response for reporting, and 78 hours per recordkeeper annually. This estimate includes the time needed to review instructions, search existing data sources, gather the data needed and review the collection of information.

Respondents: Owners or operators of petroleum refinery wastewater systems.

Estimated No. of Respondents: 120.

Estimated No. of Responses per Respondent: 2.

Estimated Total Annual Burden: 15,510 hours.

Frequency of Collection: Semiannually and on occasion.

Send comments regarding the burden estimate, or any other aspect of the information collection, including suggestions for reducing the burden, to:

Sandy Farmer, U.S. Environmental Protection Agency, Information Policy Branch (PM–223Y), 401 M Street SW., Washington, DC 20460,

and

Troy Hillier, Office of Management and Budget, Office of Information and Regulatory Affairs, 725 17th Street NW., Washington, DC 20503.

Dated: November 14, 1991.

Paul Lapsley,

Director, Regulatory Management Division.

[FR Doc. 91–27908 Filed 11–19–91; 8:45 am]

BILLING CODE 6560–50–M

[FRL–4031–8]

Agency Information Collection Activities Under OMB Review

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: In compliance with the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*), this notice announces that the Information Collection Request (ICR) abstracted below has been forwarded to the Office of Management and Budget (OMB) for review and comment. The ICR describes the nature of the information collection and its expected cost and burden.

DATES: Comments must be submitted on or before December 20, 1991.

FOR FURTHER INFORMATION CONTACT: Sandy Farmer at EPA, (202) 260–2740.

SUPPLEMENTARY INFORMATION:

Office of Research and Development

Title: Application for Reference or Equivalent Method Determination (EPA No. 0559.04; OMB No. 2080–0005). This ICR requests an extension to an existing information collection.

Abstract: Under 40 CFR part 58 certain State and local agencies must maintain an ambient air monitoring network to comply with the National Ambient Air Quality Standards. To help insure the accuracy and quality of the air monitoring data, the methods used to measure the concentration of specific air pollutants must be approved by the EPA. Under 40 CFR part 53, a new method must be subjected to performance testing by the interested party and the results submitted to the EPA using an Application for Reference or Equivalent Method Determination. The information required in the application includes: (1) The test results of the method; (2) descriptions of the test apparatus and test procedures used; (3) a description of the nature of the method, and the measurement principle employed by the method; (4) the operational instructions and calibration procedure associated with the method; (5) and other information required by the regulation.

If EPA determines, on the basis of the information, that the performance of the method meets the requirements specified in 40 CFR part 53, the method is designated as either a reference or equivalent method. Following the designation of a method, the EPA publishes a Notice of Designation in the **Federal Register**, and the method is added to the EPA's List of Designated Reference and Equivalent Methods. The list identifies all designated methods available for use by air monitoring and control agencies, and is distributed to the appropriate agencies.

An interested party seeking approval to modify a method must provide EPA with information similar to that in the application described above, but confined to specific details about that modification. A vendor of a designated method must maintain records of the names and addresses of all purchasers of the method, so that in the event the test method is withdrawn, the purchasers can be notified.

Burden Statement: Public reporting burden for this collection of information is estimated to average 98 hours per response. This estimate includes an estimated 300 to 1000 hours per application for a reference or equivalent method application and an average of 20 hours per method modification, including time for reviewing the applicable regulations, test procedures, and specific requirements; gathering the equipment; obtaining the information; compiling and documenting test results; and preparing the application for submission to EPA. Public recordkeeping burden is estimated to average 5 hours annually including the time for storing and maintaining information on the purchasers of methods.

Respondents: Businesses or other for-profit organizations, non-profit institutions, small businesses, State and local government.

Estimated Number of Respondents: 8.

Estimated Number of Responses per Respondent: 1.

Estimated Total Annual Burden on Respondents: 881 hours.

Frequency of Collection: On occasion. Send comments regarding the burden estimate, or any other aspect of this collection of information, including suggestions for reducing the burden, to:

Sandy Farmer, U.S. Environmental Protection Agency, Information Policy Branch (PM–223Y), 401 M Street SW., Washington, DC 20460,

and

Tim Hunt, Office of Management and Budget, Office of Information and Regulatory Affairs, 725 17th St., NW., Washington, DC 20503.

Dated: November 13, 1991.

Paul Lapsley,

Director, Regulatory Management Division.

[FR Doc. 91–27910 Filed 11–19–91; 8:45 am]

BILLING CODE 6560–50–M

[FRL–4032–4]

Ambient Air Monitoring Reference and Equivalent Methods; Receipt of Application for an Equivalent Method Determination

Notice is hereby given that on October 10, 1991, the Environmental Protection Agency received an application from OPSIS AB, P.O. Box 244, S–24402 Furlund, Sweden, to determine if their opto-analyzer Model AR 500 long-path NO_2 analyzer should be designated by the Administrator of the EPA as an equivalent method under 40 CFR part 53. If, after appropriate

technical study, the Administrator determines that this method should be so designated, notice thereof will be given in a subsequent issue of the Federal Register.

Erich W. Bretthauer,

Assistant Administrator for Research and Development.

[FR Doc. 91-27909 Filed 11-19-91; 8:45 am]

BILLING CODE 6560-50-M

[FRL-4032-2]

Western Hemisphere Working Group of the Trade and Environment Committee of the National Advisory Council for Environmental Policy and Technology (NACEPT); Meeting on December 13, 1991

Under Public Law 92463 (The Federal Advisory Committee Act), EPA gives notice of the meeting of the Western Hemisphere Working Group of the Trade and Environment Committee. The Trade and Environment Committee is a standing committee of the National Advisory Council for Environmental Policy and Technology (NACEPT), an advisory committee to the Administrator of the EPA. The meeting will convene December 13, from 10 a.m. to 4 p.m. at the law firm of Donovan, Leisure, Rogovin, Huge & Schiller, 1250 24th Street NW., Washington, DC 20037.

The Western Hemisphere Working Group will explore potential trade and environment linkages arising in the Western Hemisphere in order to demonstrate general trade and environment linkages globally. The working group will suggest practicable policy approaches to these linkages in order to draw out a general policy framework for the United States. For further information, please call (202) 260-3198

Dated: November 14, 1991.

Abby J. Pirnie,

NACEPT Designated Federal Official.

[FR Doc. 91-27906 Filed 11-19-91; 8:45 am]

BILLING CODE 6560-50-M

[FRL-4032-1]

GATT Working Group of the Trade and Environment Committee of the National Advisory Council for Environmental Policy and Technology (NACEPT); Notice of Meeting on December 4, 1991

Under Public Law 92463 (The Federal Advisory Committee Act), EPA gives notice of the meeting of the GATT Working Group of the Trade and Environment Committee. The Trade and Environment Committee is a standing committee of the National Advisory Council for Environmental Policy and Technology (NACEPT), an advisory committee to the Administrator of the EPA. The meeting will convene December 4, from 10 a.m. to 4 p.m. at the offices of General Electric Corporation, 1331 Pennsylvania Avenue NW., conference room 830 North, Washington, DC 20004.

The GATT Group will explore the linkages between trade and environment, and especially how they relate to the General Agreement on Tariffs and Trade. The working group will suggest practicable policy approaches to these linkages in order to draw out a general policy framework for the United States. For further information, please call (202) 260-3198.

Dated: November 14, 1991.

Abby J. Pirnie,

NACEPT Designated Federal Official.

[FR Doc. 91-27907 Filed 11-19-91; 8:45 am]

BILLING CODE 6560-50-M

[FRL-4031-6]

Environmental Statistics Subcommittee of The Environmental Measurements and Chemical Accident Prevention Committee of the National Advisory Council for Environmental Policy and Technology (NACEPT); Notice of Open Meeting on December 23, 1991

Under Public Law 92463 (The Federal Advisory Committee Act,) EPA gives notice of the meeting of the Environmental Statistics Subcommittee of the Environmental Measurements and Chemical Accident Prevention (EM/CAP) Committee. The EM/CAP committee is a new standing committee of the National Advisory Council for Environmental Policy and Technology (NACEPT,) an advisory committee to the Administrator of the EPA. The meeting will convene December 2, 1991, from 9 a.m. to 5 p.m. and December 3, 1991 from 9 a.m. to 12 noon at the Conference Room of the National Governors' Association, Hall of States, 444 North Capitol Street NW., suite 250, Washington, DC 20001.

This Subcommittee will focus on the policy aspects of operation, planning and outputs of the environmental statistics initiative in EPA's Office of Policy, Planning and Evaluation. At this first meeting of the group several specific and general topics will be discussed. Briefings will be made concerning the goals and objectives, and data handling facilities. The Subcommittee will discuss and make recommendations concerning the concept of environmental indicators and plans for a compendium of environmental statistics. The Subcommittee will also discuss and examine the concept of this initiative and its relationship to the rest of the environmental community.

The December 2-3 meeting will be open to the public. Additional information may be obtained from Richard Cothern by calling (202) 260-3378, or by written request sent by fax (202) 260-4968.

Dated: November 12, 1991.

Abby J. Pirnie,

NACEPT Designated Federal Official.

[FR Doc. 91-27911 Filed 11-19-91; 8:45 am]

BILLING CODE 6560-50-M

[FRL-4032-3]

National Drinking Water Advisory Council; Open Meeting

Under section (1)(a)(2) of Public Law 92-423, "The Federal Advisory Committee Act," notice is hereby given that a meeting of the National Drinking Water Advisory Council established under the Safe Drinking Water Act, as amended (Pub. L. 99-339), will be held at 9 a.m. on December 12, 1991 and at 8:30 a.m. on December 13, 1991, at the St. James Hotel, St. James Room, 950 24th Street NW., Washington, DC 20007. Council Subcommittees will hold their meetings on December 10 and 11, 1991 at the Environmental Protection Agency.

The purpose of the meeting will be to seek council advice and comments on major program issues. Some issues include: Disinfection/Disinfection-By-Products; Groundwater Disinfection; Public Water Supply Supervision Implementation Options; Variance and Exemption Policy; and oversight of UIC Primacy Programs. The council will also receive an update on: The National Pesticide Survey; Ground Water Strategy; Proposed Radionuclide Rule; Proposed Phase V Rule; and the Reauthorization of the Safe Drinking Water Act.

The meeting will be open to the public. The Council encourages the hearing of outside statements and will allocate a portion of its meeting time for public participation. Oral statements will be limited to ten minutes. It is preferred that there be only one presenter for each statement. Any outside parties interested in presenting an oral statement should petition the Council by telephone at (202) 260-2285. The petition should include the topic of the proposed statement, the petitioner's telephone number and should be

received by the Council before December 22, 1991.

Any person who wishes to file a written statement can do so before or after a Council meeting. Written statements received prior to the meeting will be distributed to the members before any final discussion or vote is completed. Statements received after the meeting will become part of the permanent meeting file and will be forwarded to the Council members for their information.

Any member of the public wishing to attend the council meeting, present an oral statement, or submit a written statement, should contact Ms. Charlene Shaw, Designated Federal Official, National Drinking Water Advisory Council, U.S. Environmental Protection Agency, Office of Drinking Water (WH-550A), 401 M Street SW., Washington, DC 20460 or at (202) 260-2285.

Dated: November 8, 1991.

James R. Elder,

Director, Office of Ground Water and Drinking Water.

[FR Doc. 91-27905 Filed 11-19-91; 8:45 am]

BILLING CODE 6560-50-M

[OPP-00287A; FRL 4000-8]

Pesticide Information Network; Change in Availability for Use by the General Public

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notification of change in telephone numbers.

SUMMARY: This notice announces that as of November 18, 1991 the telephone numbers to access both the Pesticide Information Network (PIN) and PIN User Support Staff will be changed. The new access number for the PIN will be 703-305-5919 or FTS 365-5919. PIN User Support can be reached at 703-305-7499 or FTS 365-7499. The PIN is an interactive data base providing current pesticide information. The information sources available through the PIN are the Pesticide Monitoring Inventory (PMI), the Restricted Use Products file and the Chemical Index.

FOR FURTHER INFORMATION CONTACT: For brochures, Pesticide Monitoring Project Forms, or technical information contact the PIN User Support Staff: Leslie Davies-Hilliard, Environmental Protection Agency, Office of Pesticide Programs, EFED/EFGWB/Pesticide Program Monitoring Section (H7507C), 401 M St., SW., Washington, DC 20460, (703) 305-7499.

SUPPLEMENTARY INFORMATION: The Pesticide Information Network currently consists of three files, the PMI, the Restricted Use Product file, and the Chemical Index.

The PMI is a collection of monitoring projects being performed by Federal, State, and local agencies, private institutions, and industry. The PMI contains a short synopsis of each pesticide monitoring project, including chemicals, substrates, and location. It also lists the name, address, and telephone number of a person to contact to gain additional information on a specific project. The information provided can be tailored to the user's needs. Users may search for projects by chemical, substrate, EPA Region, State, and various other criteria, and download the results of their search to their own computer.

While the Office of Pesticide Programs is providing the support which will allow the PMI to function, its growth and its ultimate value depends largely upon users who provide monitoring projects for inclusion into the data base. To add your project to the PMI, contact the User Support Staff listed under FOR FURTHER INFORMATION CONTACT above.

The PMI allows the user community to tap a broad base of information that will enhance their own monitoring programs, eliminate duplicative efforts, and encourage the development of cooperative, cost effective programs.

The Restricted Use Product File, (RUP), is maintained by the Registration Support Branch of the Office of Pesticide Programs. It lists, by active ingredient, all products classified as restricted use under 40 CFR part 152, subpart I. Product information can be obtained by searching the chemical name of the active ingredient, CAS Number, EPA Registration Number or revision date. Information on the actions taken and criteria used for the restricted use classification are also provided as well as identification of cancelled products. Any information obtained may be downloaded to the user's computer. The Rup is updated on the first of each month.

The Chemical Index is a cross-reference of the chemicals contained in the PMI and RUP. It provides the chemical name on which the data base must be searched, synonyms, CAS Number, class, category, and file location.

The PIN is located on a personal computer and is accessible by dataphone similar to the PC to PC bulletin boards that are used to share information. It is completely menu driven and it is on-line 24 hours per day, 7 days a week. To access the PIN, users must have a computer/modem or terminal capable of being set at the following parameters:

Baud Rate: 1200 or 2400
Databits: 7
Stop: 1
Parity: Even
Duplex: Full
Phone Number: (703) 305-5919; FTS 8-365-5919.

Those who could benefit from using the PIN include State and Federal regulatory agencies, EPA Regional Offices, environmental groups, pesticide-associated industry, researchers, and environmental and health officials. As the PIN continues to expand, pesticide information will be included that will provide EPA and the regulatory community with additional tools to evaluate the effectiveness of regulatory actions, illustrate the environmental results of regulatory actions, and identify unanticipated, emerging health and environmental problems.

Dated: November 7, 1991.

Douglas D. Campt,

Director, Office of Pesticide Programs.

[FR Doc. 91-27790 Filed 11-19-91; 8:45 am]

BILLING CODE 6560-50-F

[OPTS-59922; FRL 4005-2]

Certain Chemicals; Premanufacture Notices

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: Section 5(a)(1) of the Toxic Substances Control Act (TSCA) requires any person who intends to manufacture or import a new chemical substance to submit a premanufacture notice (PMN) to EPA at least 90 days before manufacture or import commences. Statutory requirements for section 5(a)(1) premanufacture notices are discussed in the final rule published in the **Federal Register** of May 13, 1983 (48 FR 21722). In the **Federal Register** of November 11, 1984, (49 FR 46066) (40 CFR 723.250), EPA published a rule which granted a limited exemption from certain PMN requirements for certain types of polymers. Notices for such polymers are reviewed by EPA within 21 days of receipt. This notice announces receipt of 4 such PMN(s) and provides a summary of each.

DATES: Close of review periods:

Y 92-33, November 27, 1991.

Y 92-34, 92-35, November 25, 1991.

Y 92-36, November 26, 1991.

FOR FURTHER INFORMATION CONTACT: David Kling, Acting Director, Environmental Assistance Division (TS–799), Office of Toxic Substances, Environmental Protection Agency, Rm. E–545, 401 M St., SW., Washington, DC, 20460, (202) 554–1404, TDD (202) 554–0551

SUPPLEMENTARY INFORMATION: The following notice contains information extracted from the nonconfidential version of the submission provided by the manufacturer on the PMNs received by EPA. The complete nonconfidential document is available in the TSCA Public Docket Office, NE–G004 at the above address between 8 a.m. and noon and 1 p.m. and 4 p.m., Monday through Friday, excluding legal holidays.

Y 92–33

Manufacturer. PPG Industries, Inc.

Chemical. (G) Siloxanes and silicone, dimethyl, methyl aryl.

Use/Production. (S) Die–cast lubricant. Prod. range: Confidential.

Y 92–34

Importer. Unichem North America.

Chemical. (G) Alkanedibasic acid, propanediol polyester.

Use/Import. (S) Plasticizer. Import range: Confidential.

Toxicity Data. Acute oral toxicity: LD50 > 2,000 species (rat).

Y 92–35

Importer. Unichem North America.

Chemical. (G) Alkane/aromatic dibasic acid, propanediol, *N*-alkanol polyester.

Use/Import. (S) Plasticizer. Import range: Confidential.

Toxicity Data. Acute oral toxicity: LD50 > 2,000 species (rat).

Y 92–36

Manufacturer. Polyacryl, Inc.

Chemical. (G) Acrylic copolymer.

Use/Production. (S) Thickens in water lorne systems. Prod. range: 50,000–100,000 kg/yr.

Toxicity Data. Acute oral toxicity: LD50 > 20 species (rat).

Dated: November 14, 1991.

Douglas W. Sellers,

Acting Director, Information Management Division, Office of Toxic Substances.

[FR Doc. 91–27904 Filed 11–19–91; 8:45 am]

BILLING CODE 6560–50–F

FEDERAL MARITIME COMMISSION

San Diego Unified Port District/Pasha Properties, Inc., et al.; Agreement(s) Filed

The Federal Maritime Commission hereby gives notice of the filing of the following agreement(s) pursuant to section 5 of the Shipping Act of 1984.

Interested parties may inspect and obtain a copy of each agreement at the Washington, DC Office of the Federal Maritime Commission, 1100 L Street, NW., room 10325. Interested parties may submit comments on each agreement to the Secretary, Federal Maritime Commission, Washington, DC 20573, within 10 days after the date of the **Federal Register** in which this notice appears. The requirements for comments are found in § 572.603 of title 46 of the Code of Federal Regulations. Interested persons should consult this section before communicating with the Commission regarding a pending agreement.

Agreement No.: 224–200327–003.

Title: San Diego Unified Port District/Pasha Properties, Inc. Terminal Operator Agreement.

Parties: San Diego Unified Port District (Port), Pasha Properties, Inc. (Pasha).

Synopsis: The amendment sets forth the terms and conditions under which Pasha may commence and proceed with certain construction and architectural improvements at a certain designated portion of the terminal at National City, California.

Agreement No.: 224–200591.

Title: New York & New Jersey/Lykes Lines Terminal Agreement.

Parties: The Port Authority of New York & New Jersey ("Port"), Lykes Bros. Steamship Co., Inc. ("Lykes").

Synopsis: The proposed Agreement provides that the Port will pay to Lykes a sum of $50 per export container and $25 per import container for containers moving through the Port's terminals, provided the containers meet certain specified qualifications. The Agreement will terminate not later than December 31, 1991.

Agreement No.: 203–011268–005.

Title: New Zealand/United States Interconference and Carrier Discussion Agreement.

Parties: New Zealand-Pacific Coast Rate Agreement, New Zealand/US Atlantic & Gulf Shipping Lines Rate Agreement, Blue Star Pace, Limited, Columbus Line, Australia-New Zealand Direct Line, ABC Container Line, N.V.

Synopsis: The amendment adds Lauritzen Reefers A/S as a party to the Agreement and establishes separate discussion groups for container carriers and conventional carriers. The parties have requested a shortened review period.

Agreement No.: 202–010789–004.

Title: Israel Westbound Conference Agreement.

Parties: Farrell Lines, Inc., Lykes Bros. Steamship Company, Inc., Zim Israel Navigation Co., Ltd.

Synopsis: The proposed amendment provides that all rights, responsibilities, obligations, and liabilities of existing service contracts under the Agreement will be transferred to the Israel Trade Conference when it is implemented. The parties have requested expedited approval.

Agreement No.: 202–010790–009.

Title: Israel Eastbound Conference Agreement.

Parties: Farrell Lines, Inc., Lykes Bros. Steamship Company, Inc., Zim Israel Navigation Co., Ltd.

Synopsis: The proposed amendment provides that all rights, responsibilities, obligations, and liabilities of existing service contracts under the Agreement will be transferred to the Israel Trade Conference when it is implemented. The parties have requested expedited approval.

Agreement No.: 202–011346–001.

Title: Israel Trade Conference Agreement.

Parties: Farrell Lines, Inc., Lykes Bros. Steamship Company, Inc., Zim Israel Navigation Co., Ltd.

Synopsis: The proposed amendment provides that, upon implementing the appropriate action, the Agreement will assume all rights, responsibilities, obligations, and liabilities of existing service contracts of the Israel Eastbound Conference and the Israel Westbound Conference. The parties have requested expedited approval.

By Order of the Federal Maritime Commission.

Dated: November 14, 1991.

Ronald D. Murphy,

Assistant Secretary.

[FR Doc. 91–27833 Filed 11–19–91; 8:45 am]

BILLING CODE 6730–01–M

FEDERAL RESERVE SYSTEM

SouthTrust Corporation; Acquisition of Company Engaged in Permissible Nonbanking Activities

The organization listed in this notice has applied under § 225.23(a)(2) or (f) of the Board's Regulation Y (12 CFR 225.23(a)(2) or (f)) for the Board's approval under section 4(c)(8) of the

Bank Holding Company Act (12 U.S.C. 1843(c)(8)) and § 225.21(a) of Regulation Y (12 CFR 225.21(a)) to acquire or control voting securities or assets of a company engaged in a nonbanking activity that is listed in § 225.25 of Regulation Y as closely related to banking and permissible for bank holding companies. Unless otherwise noted, such activities will be conducted throughout the United States.

The application is available for immediate inspection at the Federal Reserve Bank indicated. Once the application has been accepted for processing, it will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the question whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interests, or unsound banking practices." Any request for a hearing on this question must be accompanied by a statement of the reasons a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of the proposal.

Comments regarding the application must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than December 10, 1991.

A. Federal Reserve Bank of Atlanta (Robert E. Heck, Vice President) 104 Marietta Street, N.W., Atlanta, Georgia 30303:

1. SouthTrust Corporation, Birmingham, Alabama, and SouthTrust of Florida, Inc., St. Petersburg, Florida; to establish SouthTrust of Pinellas County, FSB, St. Petersburg, Florida, ("Interim Bank") pursuant to § 4(c)(8) of the Bank Holding Company Act and § 225.25(b)(9) of the Board's Regulation Y; and to merge Interim Bank with and into SouthTrust of Florida's wholly-owned bank subsidiary, SouthTrust Bank of Pinellas County, St. Petersburg, Florida, pursuant to the Oakar Amendment of FIRREA.

Board of Governors of the Federal Reserve System, November 13, 1991.

Jennifer J. Johnson,

Associate Secretary of the Board.

[FR Doc. 91-27746 Filed 11-19-91; 8:45 am]

BILLING CODE 6210-01-F

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control

Technical Advisory Committee for Diabetes Translation and Community Control Programs: Meeting

In accordance with section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463), the Centers for Disease Control (CDC) announces the following committee meeting.

Name: Technical Advisory Committee for Diabetes Translation and Community Control Programs.

Time and Date: 8 a.m.-4:30 p.m., Wednesday, December 11, 1991.

Place: Rhodes Building, 4th Floor Conference Room, 3005 Chamblee-Tucker Road, Atlanta, Georgia 30341. (Exit Chamblee-Tucker Road off I-85).

Status: Open to the public, limited only by the space available.

Purpose: This committee is charged with advising the Director, CDC, regarding priorities and feasible goals for translation activities and community control programs designed to reduce morbidity and mortality from diabetes and its complications. The Committee advises regarding policies, strategies, goals and objectives, and priorities; identifies research advances and technologies ready for translation into widespread community practice; recommends public health strategies to be implemented through community interventions; advises on operational research and outcome evaluation methodologies; identifies research issues for further clinical investigation; and advises regarding the coordination of programs with Federal, voluntary, and private resources involved in the provision of services to people with diabetes.

Matters To Be Discussed: The Committee will continue to identify specific long-range goals and objectives for the Technical Advisory Committee for Diabetes Translation and Community Control Programs. In addition, the Committee will discuss issues related to how the Division of Diabetes Translation can further coordinate diabetes translation, and the role of the Committee within this coordination process. Division of Diabetes Translation staff will provide updates on diabetes control programs currently operational within the Division.

Agenda items are subject to change as priorities dictate.

Contact Person for More Information: Frederick G. Murphy, Program Analyst, Division of Diabetes Translation, National Center for Chronic Disease Prevention and Health Promotion, CDC, 1600 Clifton Road, NE., (K-10), Atlanta, Georgia 30333, telephone 404/488-5005 or FTS 236-5005.

Dated: November 14, 1991.

Elvin Hilyer,

Associate Director for Policy Coordination, Centers for Disease Control.

[FR Doc. 91-27867 Filed 11-19-91; 8:45 am]

BILLING CODE 4160-18-M

Food and Drug Administration

[Docket No. 91P-0375]

Sour Cream Deviating From Identity Standard; Temporary Permit for Market Testing

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing that a temporary permit has been issued to Safeway, Inc., to market test a product designated as "light sour cream" that deviates from the U.S. standard of identity for sour cream (21 CFR 131.160). The purpose of the temporary permit is to allow the applicant to measure consumer acceptance of the product, identify mass production problems, and assess commercial feasibility.

DATES: This permit is effective for 15 months, beginning on the date the food is introduced or caused to be introduced into interstate commerce, but not later than February 18, 1992.

FOR FURTHER INFORMATION CONTACT: Michelle A. Smith, Center for Food Safety and Applied Nutrition (HFF-414), Food and Drug Administration, 200 C Street SW., Washington, DC 20204, 202-485-0106.

SUPPLEMENTARY INFORMATION: In accordance with 21 CFR 130.17 concerning temporary permits to facilitate market testing of foods deviating from the requirements of the standards of identity promulgated under section 401 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 341), FDA is giving notice that a temporary permit has been issued to Safeway, Inc., Safeway Brands Marketing Division, 2800 Ygnacio Valley Rd., Walnut Creek, CA 94598.

The permit covers limited interstate marketing tests of a product that deviates from the U.S. standard of identity for sour cream in 21 CFR 131.160 in that: (1) The fat content of the product is reduced from 18 percent to 7 percent,

and (2) sufficient vitamin A palmitate is added in a suitable carrier to ensure that a 2-tablespoon (1-ounce or 28-gram) serving of the product contains 4 percent of the U.S. Recommended Daily Allowance for vitamin A. The product meets all requirements of the standard with the exception of these deviations. The purpose of this variation is to offer the consumer a product that is nutritionally equivalent to sour cream but contains fewer calories and less fat.

For the purpose of this permit, the name of the product is "light sour cream." The principal display panel of the label must include the statements "reduced calories" and "reduced fat" following the name. In addition, the label must bear the comparative statements "60% less fat" and "50% less calories than regular sour cream." The information panel of the label will bear nutrition labeling in accordance with 21 CFR 101.9.

This permit provides for the temporary marketing of 3.1 million kilograms (6.9 million pounds) of the test product. The product will be manufactured at: (1) Safeway Milk Plant, 16800 SE. Evelyn St., Clackamas, OR 97015; (2) Safeway Milk Plant, 6200 Columbia Park Rd., Landover, MD 20785; and (3) Jerseymaid Milk Products, 3361 South Boxford Ave., City of Commerce, CA 90040. The product will be distributed in Alaska, Arizona, California, Colorado, Hawaii, Idaho, Kansas, Maryland, Missouri, Montana, Nevada, New Mexico, Oregon, South Dakota, Texas, Virginia, Washington, Wyoming, and the District of Columbia.

Each of the ingredients used in the food must be declared on the label as required by the applicable sections of 21 CFR part 101. This permit is effective for 15 months, beginning on the date the food is introduced or caused to be introduced into interstate commerce, but not later than February 18, 1992.

Dated: November 1, 1991.

Douglas L. Archer,

Deputy Director Center for Food Safety and Applied Nutrition.

[FR Doc. 91-27940 Filed 11-19-91; 8:45 am]

BILLING CODE 4160-01-M

Advisory Committee Meeting; Amendment of Notice

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing an amendment to the agenda of a meeting of the Orthopedic and Rehabilitation Devices Panel of the Medical Devices Advisory Committee which is scheduled for November 22, 1991. This meeting was announced in the **Federal Register** of October 17, 1991 (56 FR 52047 at 52048). The date, times, and place of the meeting remain the same as announced in the October 17, 1991 **Federal Register.** This amendment will be announced at the beginning of the open portion of the meeting. This action is being taken to clarify the actual issues to be discussed at the meeting. The committee will discuss premarket approval applications (PMA's) for an uncemented, porous metal-coated total knee prosthesis and an ultrasound bone growth stimulator device. The committee will not be discussing the PMA for the prosthetic knee ligament device.

FOR FURTHER INFORMATION CONTACT: Marie A. Schroeder, Center for Devices and Radiological Health (HFZ-410), Food and Drug Administration, 1390 Piccard Dr., Rockville, MD 20850, 301-427-1036.

SUPPLEMENTARY INFORMATION: In the **Federal Register** of October 17, 1991 (56 FR 52047 at 52048), FDA announced that a meeting of the Orthopedic and Rehabilitation Devices Panel of the Medical Devices Advisory Committee would be held on November 22, 1991. The agenda for this meeting is amended as follows:

Open Committee Discussion

The committee will discuss premarket approval applications for an uncemented, porous metal-coated total knee prosthesis and an ultrasound bone growth stimulator device.

Closed Presentation of Data

The committee may discuss trade secret or confidential commercial information regarding materials, design, and/or manufacturing information for the above premarket approval applications. This portion of the meeting will be closed to permit discussion of this information (5 U.S.C. 552b(c)(4)).

Dated: November 18, 1991.

Michael R. Taylor,

Deputy Commissioner for Policy.

[FR Doc. 91-28009 Filed 11-18-91; 10:30 am]

BILLING CODE 4160-01-M

Consumer Participation; Open Meetings

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing the following district consumer exchange meetings; Philadelphia District Office, chaired by Loren Y. Johnson, District Director. The topics to be discussed are food labeling, Prozac, Halcion, breast implants, seafood, and other issues.

DATES: Thursday, November 21, 1991, 10 a.m.

ADDRESSES: Federal Bldg., rm. 2102, 1000 Liberty Ave., Pittsburg, PA 15222.

FOR FURTHER INFORMATION CONTACT: Theresa A. Holmes, Public Affairs Specialist, Food and Drug Administration, U.S. Customhouse, rm. 900, Second and Chestnut Sts., Philadelphia, PA 19106, 215-597-0837.

New York District Office, chaired by Edward T. Warner, District Director. The topic to be discussed is food labeling.

DATES: Friday, November 22, 1991, 1:30 p.m.

ADDRESSES: Plainview-Old Bethpage Public Library, 999 Old Country Rd., Plainview, NY 11803.

FOR FURTHER INFORMATION CONTACT: Herman B. Janiger, Public Affairs Specialist, Food and Drug Administration, 850 Third Ave., Brooklyn, NY 11232-1593, 718-965-5043.

Philadelphia District Office, chaired by Loren Y. Johnson, District Director. The topics to be discussed are food labeling, Prozac, Halcion, breast implants, seafood, and other issues.

DATES: Friday, November 22, 1991, 10 a.m.

ADDRESSES: Food and Drug Administration, U.S. Customhouse, rm. 1001, Second and Chestnut Sts., Philadelphia, PA 19106.

FOR FURTHER INFORMATION CONTACT: Theresa A. Holmes, Public Affairs Specialist, Food and Drug Administration, U.S. Customhouse, rm. 900, Second and Chestnut Sts., Philadelphia, PA 19106, 215-597-0837.

SUPPLEMENTARY INFORMATION: The purpose of these meetings is to encourage dialogue between consumers and FDA officials, to identify and set priorities of current and future health concerns, to enhance relationships between local consumers and FDA's district offices, and to contribute to the agency's policymaking decisions on vital issues.

Dated: November 14, 1991.

Michael R. Taylor,

Deputy Commissioner for Policy.

[FR Doc. 91-27868 Filed 11-19-91; 8:45 am]

BILLING CODE 4160-01-M

Health Care Financing Administration

Medicare and Medicaid Programs; Meeting of the Advisory Council on Social Security

AGENCY: Health Care Financing Administration (HCFA), HHS.

ACTION: Notice of public meeting.

SUMMARY: In accordance with section 10(a) of the Federal Advisory Committee Act, this notice announces a meeting of the Advisory Council on Social Security.

DATES: The meeting will be open to the public on December 2, 1991 from 9:30 a.m. to 4 p.m.

ADDRESSES: Loew's L'Enfant Plaza Hotel, 480 L'Enfant Plaza Southwest, Washington, DC.

FOR FURTHER INFORMATION CONTACT: Robert Lagoyda, Program Analyst, Advisory Council on Social Security, room 638 G, Hubert H. Humphrey Building, 200 Independence Avenue, SW., Washington, DC 20201, 202–245–0217.

SUPPLEMENTARY INFORMATION:

I. Purpose

Under section 706 of the Social Security Act (the Act), the Secretary of Health and Human Services (the Secretary) appoints the Council every four years. The Council examines issues affecting the Social Security retirement, disability, and survivors insurance programs, as well as the Medicare and Medicaid programs, which were created under the Act.

In addition, the Secretary has asked the Council specifically to address the following:

- The adequacy of the Medicare program to meet the health and long-term care needs of our aged and disabled populations, the impact on Medicaid of the current financing structure for long-term care, and the need for more stable health care financing for the aged, the disabled, the poor, and the uninsured;
- Major Old Age, Survivors, and Disability Insurance (OASDI) financing issues, including the long-range financial status of the program, relationship of OASDI income and outgo to budget-deficit reduction efforts under the Balanced Budget and Emergency Deficit Control Act of 1985, and projected buildups in the OASDI trust funds; and
- Broad policy issues in Social Security, such as the role of Social Security in overall U.S. retirement income policy.

The Council is composed of the following members: G. Lawrence Atkins, Robert M. Ball, Philip Briggs, Lonnie R. Bristow, Theodore Cooper, John T. Dunlop, Karen Ignagni, James R. Jones, John Meagher, A.L. "Pete" Singleton, John J. Sweeney, and Don C. Wegmiller. The chairperson is Deborah Steelman.

The Council is to report to the Secretary and Congress in 1991.

II. Agenda

The Council will discuss issues relating to health care financing policy.

The agenda items are subject to change as priorities dictate.

(Catalog of Federal Domestic Assistance Programs Nos. 13.714 Medical Assistance Program; 13.733 Medicare-Hospital Insurance; 13.774 Medicare-Supplementary Medical Insurance; 13.802, Social Security-Disability Insurance; 13.803 Social Security-Retirement Insurance; 13.805 Social Security-Survivor's Insurance)

Dated: November 6, 1991.

Ann D. LaBelle,

Executive Director, Advisory Council on Social Security.

[FR Doc. 91–27948 Filed 11–19–91; 8:45 am]

BILLING CODE 4120–01–M

Health Resources and Services Administration

Program Announcement and Proposed Funding Preference and Priorities for Grants for Establishment of Departments of Family Medicine

The Health Resources and Services Administration (HRSA) announces that applications for fiscal year (FY) 1992 Grants for Establishment of Departments of Family Medicine are being accepted under the authority of section 780, title VII of the Public Health Service (PHS) Act, as amended by the Health Professions Reauthorization Act of 1988, title VI of Public Law 100–607. Comments are invited on the proposed funding preference and priorities stated below.

This legislation for this program expired on September 30, 1991. This program announcement is subject to reauthorization of this legislative authority and to the appropriation of funds. Applicants are advised that the program announcement is a contingency action being taken to assure that should funds become available for this purpose, they can be awarded in a timely fashion consistent with the needs of the program as well as provide for even distribution of funds throughout the fiscal year. This notice regarding applications does not reflect any change in this policy.

Section 780 of the PHS Act authorizes support to schools of medicine and osteopathic medicine to meet the costs of projects to establish, maintain, or improve family medicine academic units (which may be departments, divisions, or other units) to provide clinical instruction in family medicine. Funds awarded will be used to: (1) Plan and develop model educational predoctoral, faculty development and graduate medical education programs in family medicine which will meet the requirements of section 786(a), by the end of the project period of section 780 support; and (2) support academic and clinical activities relevant to the field of family medicine.

The program may also assist schools to strengthen the administrative base and structure that is responsible for the planning, direction, organization, coordination, and evaluation of all undergraduate and graduate family medicine activities. Funds are to complement rather than duplicate programmatic activities for actual operation of family medicine training programs under section 786(a).

To be eligible to receive support for this grant program, the applicant must be a public or nonprofit private accredited school of medicine or osteopathic medicine.

To receive support, programs must meet the requirements of final regulations as set forth in 42 CFR part 57, subpart R.

The period of Federal support will not exceed 5 years.

National Health Objectives for the Year 2000

The Public Health Service (PHS) urges applicants to submit work plans that address specific objectives of Healthy People 2000. Potential applicants may obtain a copy of Healthy People 2000 (Full Report; Stock No. 017–001–00474–0) or Healthy People 2000 (Summary Report; Stock No. 017–001–00473–1) through the Superintendent of Documents, Government Printing Office, Washington, DC 20402–9325 (Telephone (202) 783–3238).

Education and Service Linkage

As part of its long-range planning, HRSA will be targeting its efforts to strengthening linkages between U.S. Public Health Service training programs and programs which provide comprehensive primary care services to the underserved.

Review Criteria

The review of applications will take into consideration the following criteria:

1. The degree to which the proposed project adequately provides for the project requirements in § 57.1704;

2. The administrative and management capability of the applicant

to carry out the proposed project in a cost effective manner;

3. The qualifications of the proposed staff and faculty of the unit; and

4. The potential of the project to continue on a self-sustaining basis.

In addition, the following mechanisms may be applied in determining the funding of approved applications.

1. Funding Preferences—funding of a specific category or group of approved applications ahead of the categories or groups of applications such as competing continuation projects ahead of new projects.

2. Funding priorities—favorable adjustment of aggregate review scores when applications meet specified objective criteria.

3. Special considerations—enhancement of priority scores by merit reviewers based on the extent to which applications address special areas of concern.

Special Consideration

Special consideration will be given to:

- Applicants that demonstrate the potential to continue the project on a self-sustaining basis.
- Applicants that demonstrate to the satisfaction of the Secretary a commitment to family medicine in their medical education training programs, as required by section 780, as amended by Public Law 100–607.

Proposed Funding Preference and Funding Priorities for FY 1992

The following Funding Preference and additional Funding Priorities are being proposed for fiscal year 1992.

Proposed Funding Preference

It is proposed to give a funding preference to applicants that have established a Department of Family Medicine within the last year (since November 27, 1990 or a year before the deadline for receipt of applications) or propose to establish such a unit within the first year of grant funding.

This preference is proposed to encourage the establishment of new Departments of Family Medicine, in accordance with the principal purpose of the legislation, and to support initial efforts of newly established departments to attain parity within the medical school.

Proposed Funding Priorities

It is proposed to give funding priority to the following:

1. Applicants that have an established required 3rd year family medicine clerkship (at least 4 weeks in duration) or provide evidence that such a clerkship will be initiated no later than academic year 1993–94.

Exposure of all students to family medicine early in their clinical training will increase the number of students who select family medicine residencies, and will provide a measure of institutional commitment to family medicine.

2. Applicants that establish an educational partnership between a family medicine academic administrative unit and health care facilities serving the underserved, which includes the provision of training opportunities for medical students and residents in the health care facility, and faculty development and enrichment opportunities at the medical school for medical staff of the health care center.

This priority will encourage a mutually beneficial relationship that is needed to sustain cooperation. Students will gain an understanding of rewards of providing care to the underserved and center staff will gain confidence in roles as faculty.

3. Applicants that document that 20 percent or more of the previous medical school graduating class entered accredited family medicine residency training programs or internship training programs in osteopathic medicine which emphasize family medicine and are approved by the American Osteopathic Association.

This priority encourages applicants to meet this standard which is established as a reasonable and challenging level.

4. Applicants that have established a division level administrative unit of Family Medicine within the last year (since November 27, 1990 or a year before the deadline for receipt of applications) or propose to establish such a unit within the first year of grant funding.

This priority is proposed to encourage the establishment of new division level units of family medicine, and to support initial efforts of newly established division level units of family medicine to attain parity within the medical school.

The proposed funding preference and priorities do not preclude funding of other eligible approved applications. Accordingly, entities which do not qualify for or elect the proposed funding preference or priorities are encouraged to submit applications.

Additional Information

Interested persons are invited to comment on the proposed funding preference and priorities. Normally the comment period would be 60 days. However, due to the need to implement any changes for the FY 1992 award cycle, this comment period has been reduced to 30 days. All comments received on or before December 20, 1991, will be considered before the final funding preference and priorities are established. No funds will be allocated or final selections made until a final notice is published stating when the final funding preference and priorities will be applied.

Written comments should be addressed to: Marc L. Rivo, M.D., M.P.H., Director, Division of Medicine, Bureau of Health Professions, Health Resources and Services Administration, Parklawn Building, room 4C–25, 5600 Fishers Lane, Rockville, Maryland 20857.

All comments received will be available for public inspection and copying at the Division of Medicine, Bureau of Health Professions, at the above address, weekdays (Federal holidays excepted) between the hours of 8:30 a.m. and 5 p.m.

Requests for application materials, questions regarding grants policy and business management aspects should be directed to: Mrs. Judy Bowen (D32), Grants Management Specialist, Residency and Advanced Grants Section, Bureau of Health Professions, Health Resources and Services Administration, 5600 Fishers Lane, room 8C–26, Rockville, Maryland 20857, Telephone: (301) 443–6960.

Application materials should be mailed to the Grants Management Officer at the above address.

Questions regarding programmatic information should be directed to: Mr. Donald Buysse, Chief, Primary Care Medical Education Branch, Division of Medicine, Bureau of Health Professions, Health Resources and Services Administration, 5600 Fishers Lane, room 4C–25, Rockville, Maryland 20857, Telephone: (301) 443–3614.

The standard application form PHS 6025–1, HRSA Competing Training Grant Application, General Instructions and supplement for this program have been approved by the Office of Management and Budget under the Paperwork Reduction Act. The OMB clearance number is 0915–0060.

Public Law 100–607, section 633(a), requires that for grants issued under sections 780, 784, 735 and 786 for fiscal year 1990 or subsequent fiscal years, the Secretary of Health and Human Services shall, not less than twice each fiscal year, issue solicitations for applications for such grants if amounts appropriated for such grants and remaining unobligated at the end of the first solicitation period, are sufficient with respect to issuing a second solicitation.

In view of the above requirement, applications have already been

distributed to eligible applicants with a November 27, 1991 deadline.

Applications shall be considered as meeting the deadline if they are either:

(1) Received on or before the deadline date, or

(2) Postmarked on or before the deadline date and received in time for submission to the independent review group. A legibly dated receipt from a commercial carrier or U.S. Postal Service will be accepted in lieu of a postmark. Private metered postmarks shall not be acceptable as proof of timely mailing.

Late applications not accepted for processing will be returned to the applicant.

This program is listed at 93.984 in the Catalog of Federal Domestic Assistance. Applications submitted in response to this announcement are not subject to the provisions of Executive Order 12372, Intergovernmental Review of Federal Programs (as implemented through 45 CFR part 100).

Dated: September 13, 1991.

Robert G. Harmon,

Administrator.

[FR Doc. 91-27943 Filed 11-19-91; 8:45 am]

BILLING CODE 4160-15-M

Program Announcement for Grants for Geriatric Education Centers

The Health Resources and Services Administration (HRSA) announces the acceptance of applications for fiscal year (FY) 1992, Grants for Geriatric Education Centers under the authority of section 789(a) of the Public Health Service Act, as amended by Public Law 100-607. Applications will also be accepted under the authority of section 301 in the event that funds under this authority become available. This authority expired on September 30, 1991.

This program announcement is subject to reauthorization of this legislative authority and to the appropriation of funds. Applicants are advised that this program announcement is a contingency action being taken to assure that should funds become available for this purpose, they can be awarded in a timely fashion consistent with the needs of the program as well as provide for even distribution of funds throughout the fiscal year. This notice regarding applications does not reflect any change in policy.

Section 789(a) of the PHS Act authorizes the award of grants to accredited health professions schools as defined by section 701(4), or programs for the training of physician assistants as defined by section 701(8), or schools of allied health as defined in section 701(10). Applicants conducting projects to be administered in other types of public or nonprofit private entities may be considered for geriatric education center grants under section 301 of the PHS Act. Applicants must be located in the United States, the Commonwealth of Puerto Rico, the Commonwealth of the Northern Mariana Islands, the Virgin Islands, Guam, American Samoa, the Trust Territory of the Pacific Islands (the Republic of Palau), the Republic of the Marshall Islands, or the Federated States of Micronesia.

To receive support, applicants must meet the requirements of 42 CFR part 57, subpart 00. The period of Federal support should not exceed 5 years.

Grants may be awarded to support the development of collaborative arrangements involving several health professions schools and health care facilities. These arrangements, called Geriatric Education Centers (GECs), are established to facilitate training of medical, dental, optometric, pharmacy, podiatric, nursing, clinical psychology, health administration and appropriate allied health and public health faculty, students, and practitioners in the diagnosis, treatment, and prevention of diseases and other health problems of the aged.

Projects supported under these grants may address any combination of the statutory purposes listed below:

(a) Improve the training of health professionals in geriatrics;

(b) Develop and disseminate curricular relating to the treatment of the health problems of elderly individuals;

(c) Expand and strengthen instruction in methods of such treatment;

(d) Support the training and retraining of faculty to provide such instruction;

(e) Support continuing education of health professionals and allied health professionals who provide such treatment; and

(f) Establish new affiliations with nursing homes, chronic and acute disease hospitals, ambulatory care centers, and senior centers in order to provide students with clinical training in geriatric medicine.

Grant supported projects may be designed to accomplish the statutory purposes in a variety of ways, emphasizing multidisciplinary, as well as discipline-specific, approaches to the development of geriatric education resources. For example:

- Health professions schools within a single academic health center, or a consortium of several educational institutions, may share their educational resources and expertise through a Geriatric Education Center to extend a broad range of multidisciplinary educational services outward to other institutions, faculty, facilities and practitioners within a geographic area defined by the applicant.
- Educational institutions that have limited geriatric education resources and which traditionally have had linkages to a geographic area where substantial geriatric education needs exist, may seek to establish a geriatric education center. Such a center could be designed to enhance and expand the capability of collaborating professional schools to provide geriatric education resources in the geographic area in need.
- Projects may support the development of Geriatric Education Centers designed to focus on multidisciplinary geriatric education emphasizing high priority services and high risk groups among the elderly, minority aging, or other special concerns.

National Health Objectives for the Year 2000

The Public Health Service (PHS) urges applicants to submit work plans that address specific objectives of Healthy People 2000. Potential applicants may obtain a copy of Healthy People 2000 (Full Report; Stock No. 017-001-00474-0) or Healthy People 2000 (Summary Report; Stock No. 017-001-00473-1) through the Superintendent of Documents, Government Printing Office, Washington, DC 20402-9325 (Telephone (202) 783-3238).

Education and Service Linkage

As part of its long-range planning, HRSA will be targeting its efforts to strengthening linkages between U.S. Public Health Service supported education programs and programs which provide comprehensive primary care services to the underserved.

Review Criteria

The following criteria will be considered in the review of applications:

(1) The degree to which the proposed project adequately provides for the project requirements described in 42 CFR 57.4004;

(2) The extent to which the rationale and specific objectives of the project are based upon a needs assessment of the status of geriatrics training in the institutions to be assisted and/or the geographic area to be served;

(3) The ability of the project to achieve the project objectives within the proposed geographic area;

(4) The adequacy of educational facilities and clinical training settings to accomplish objectives;

(5) The adequacy of organizational arrangements involving professional schools and other organizations necessary to carry out the project;

(6) The adequacy of the qualifications and experience in geriatrics of the project director, staff and faculty;

(7) The administrative and managerial ability of the applicant to carry out the proposed project in a cost-effective manner, and;

(8) The potential of the project to continue on a self-sustaining basis.

The following mechanisms may be applied in determining the funding of approved applications:

(1) Funding preference—funding of a specific category or group of approved applications ahead of other categories of groups of applications, such as competing continuations ahead of new projects.

(2) Funding priorities—favorable adjustment of aggregate review scores when applications meet specified objective criteria.

(3) Special Consideration—enhancement of priority scores by individual merit reviewers of approved applications which address special areas of concern. Special consideration will be given when the special area being addressed is a matter of subjective professional judgement and generally not amenable to the application of a funding priority.

Funding Preference, Priorities and Special Consideration for Fiscal Year 1992

The following funding preference, funding priorities, and special consideration will be used in FY 1992. This funding preference and these funding priorities were implemented in FY 1989 after public comment and are extended in FY 1992. The special consideration was implemented in FY 1991 after public comment and is extended into FY 1992.

Established Funding Preference

In determining the order of funding of competing applications which have been recommended for approval, a funding preference will be given to approved applications for projects which will offer training involving four or more health professions, one of which must be allopathic or osteopathic medicine.

Established Funding Priority

A funding priority will be given to applications proposing to provide for a high degree of areawide collaboration between the proposed project and local educational institutions and programs, health care facilities, social service agencies, area agencies on aging, and aging network affiliates. Collaboration with PHS-supported Area Health Education Centers (AHECs) and community and migrant health centers is encouraged.

Established Special Consideration for Fiscal Year 1992

A special consideration will be given to applications that propose didactic and clinical training experiences in geriatric rehabilitation.

Application Information

The application deadline is December 23, 1991. Applications shall be considered as meeting the deadline if they are either:

1. Received on or before the deadline date, or

2. Postmarked on or before the deadline and received in time for submission to the independent review group. A legibly dated receipt from a commercial carrier or the U.S. Postal Service will be accepted in lieu of a postmark. Private metered postmarks shall not be acceptable as proof of timely mailing.

Late applications not accepted for processing will be returned to the applicant.

Questions concerning the programmatic aspects of grants should be directed to: Donald Blandford, Chief, Geriatric Education Section, Division of Associated, Dental, and Public Health Professions, Bureau of Health Professions, Health Resources and Services Administration, 5600 Fishers Lane, room 8–103, Rockville, Maryland 20857, Telephone: (301) 443–6887.

Requests for grant application materials and questions regarding business management issues and grants policy should be directed to: Ms. Frances Briscoe (D–31), Grants Management Specialist, Bureau of Health Professions, Health Resources and Services Administration, 5600 Fishers Lane, room 8C–26, Rockville, Maryland 20857, Telephone: (301) 443–6857.

Completed applications should be returned to the Grants Management office at the above address.

The standard application, form PHS 6025–1, HRSA Competing Training Grant Application, General Instructions and supplement for this program, have been approved by the Office of Management and Budget under the Paperwork Reduction Act. The OMB clearance number is 0915–0060.

This program is listed at 93.969 in the Catalog of Federal Domestic Assistance. It is not subject to the provisions of Executive Order 12372, Intergovernmental Review of Federal Programs (as implemented through 45 CFR part 100).

Dated: September 13, 1991.

Robert G. Harmon,

Administrator.

[FR Doc. 91–27941 Filed 11–19–91; 8:45 am]

BILLING CODE 4160–15–M

Program Announcement and Proposed Funding Priority for Grants for Nurse Anesthetist Education Programs

The Health Resources and Services Administration (HRSA) announces that applications will be accepted for fiscal year 1992, Grants for Nurse Anesthetist Education Programs, authorized under section 831(a), title VIII of the Public Health Service (PHS) Act as amended by the Health Professions Reauthorization Act of 1988, title VI of Public Law 100–607. This authority expired on September 30, 1991.

This program announcement is subject to reauthorization of this legislative authority and to the appropriation of funds. Applicants are advised that this program announcement is a contingency action being taken to assure that should funds become available for this purpose, they can be awarded in a timely fashion consistent with the needs of the program as well as provide for even distribution of funds throughout the fiscal year. This notice regarding applications does not reflect any change in policy.

Section 831(a) of the Public Health Service Act authorizes grants to public or private nonprofit institutions to cover the costs of:

1. Traineeships for licensed registered nurses to become nurse anesthetists; and

2. Projects to develop and operate programs for the education of nurse anesthetists.

This announcement addresses grants for projects to develop and operate programs for the education of nurse anesthetists.

To be eligible for a grant, an applicant must be a public or nonprofit private institution accredited by an entity or entities designated by the Secretary of Education and must meet such requirements as the Secretary shall by regulation prescribe.

For purposes of this program, eligible projects will be limited to proposals for developing and operating new programs. This is in keeping with the intent of Congress that additional nurse

anesthetist education programs be created (Senate Report 101–516, p.55). An application may be submitted for a project at any stage of program development beginning with the planning period but prior to the graduation of a class. Projects which include a planning period must, before the end of the first year of the project, complete the Capability Review of the program which is required to achieve Preaccreditation Status from the Council on Accreditation of Nurse Anesthesia Educational Programs (AANA Council). Projects for Nurse Anesthetist Programs which have achieved Preaccreditation Status from the AANA Council must have students enrolled or accepted for enrollment in order to be eligible. Projects for programs which have graduated a class or will be graduating a class before a grant can be awarded are not eligible.

The period of Federal support should not exceed 3 years.

National Health Objectives for the Year 2000

The Public Health Service (PHS) urges applicants to submit work plans that address specific objectives of Healthy People 2000. Potential applicants may obtain a copy of Healthy People 2000 (Full Report; Stock No. 017–001–00474–0) or Healthy People 2000 (Summary Report; Stock No. 017–001–00473–1) through the Superintendent of Documents, Government Printing Office, Washington, DC 20402–9325 (Telephone (202) 783–3238).

Education and Service Linkage

As part of its long-range planning, HRSA will be targeting its efforts to strengthening linkages between U.S. Public Health Service education programs and programs which provide comprehensive primary care services to the underserved.

The following review criteria were established in FY 1991 after public comment and are being used in FY 1992.

Review Criteria

The HRSA will review applications taking into consideration the following criteria:

1. The national or special local need which the particular project proposes to serve with special emphasis on meeting shortages in underserved areas;

2. The potential effectiveness and impact of the proposed project including its potential contribution to nursing;

3. The administrative and managerial capability of the applicant to carry out the proposed project;

4. The appropriateness of the plan, including the timetable, for carrying out the activities of the proposed project and achieving and measuring the project's stated objectives;

5. The capability of the applicant to carry out the proposed project;

6. The reasonableness of the budget for the proposed project, including the justification of the grant funds requested; and

7. The potential of the project to continue on a self-sustaining basis after the period of grant support.

In addition, the following mechanism may be applied in determining the funding of approved applications:

Funding priorities—favorable adjustment of aggregate review scores when applications meet specified objective criteria.

Proposed Funding Priority for Fiscal Year 1992

It is proposed that a funding priority be given to applicant institutions that have formal linkages between the education program for which the applicant is seeking funding, and service programs which provide comprehensive primary care services to the underserved as part of its institutional program.

The funding priority is in keeping with the Department's long-range goals to facilitate health care to the underserved. The Department believes that linkages between nurse anesthesia programs and primary care services in underserved regions or for underserved populations will promote access leading to early diagnosis and treatment and will thus promote health.

The proposed funding priority does not preclude funding of other eligible approved applications. Accordingly, entities which do not qualify for or elect the proposed funding priority are encouraged to submit applications.

The application deadline date is January 6, 1992. Applications shall be considered as meeting the deadline date if they are either:

1. Received on or before the deadline date, or

2. Postmarked on or before the deadline and received in time for submission to an independent review group. A legibly dated receipt from a commercial carrier or the U.S. Postal Service will be accepted in lieu of a postmark. Private metered postmarks shall not be acceptable as proof of timely mailing.

Late applications not accepted for processing will be returned to the applicant.

Additional Information

Interested persons are invited to comment on the proposed funding priority. Normally the comment period would be 60 days. However, due to the need to implement any changes for the FY 1992 award cycle, this comment has been reduced to 30 days. All comments received on or before December 20, 1991, will be considered before the final funding priority is established. No funds will be allocated or final selections made until a final notice is published stating when the final funding priority will be applied.

Written comments should be addressed to: Marla E. Salmon, Sc.D., R.N., Director, Division of Nursing, Bureau of Health Professions, Health Resources and Services Administration, 5600 Fishers Lane, room 5C–26, Rockville, Maryland 20857.

All comments received will be available for public inspection and copying at the Division of Nursing, Bureau of Health Professions, at the above address, weekdays (Federal holidays excepted) between the hours of 8:30 a.m. and 5 p.m.

Request for application materials, questions regarding business management aspects and grants policy should be directed to: Ms. Sandra Bryant (A–22), Grants Management Specialist, Bureau of Health Professions, Health Professions, Health Resources and Services Administration, Parklawn Building, room 8C–26, 5600 Fishers Lane, Rockville, Maryland 20857, Telephone (301) 443–6915.

Application materials should be mailed to the Grants Management Office at the above address.

Questions regarding programmatic information should be directed to: Mary S. Hill, R.N., Ph.D., Chief, Nursing Education Practice Resources Branch, Division of Nursing, Bureau of Health Professions, Health Resources and Services Administration, Parklawn Building, room 5C–14, 5600 Fishers Lane, Rockville, Maryland 20857, Telephone (301) 443–6193.

The standard application form and general instructions, PHS 6025–1, HRSA Competing Training Grant Application and supplement for this program have been approved by the Office of Management and Budget under the Paperwork Reduction Act. The OMB clearance number is 0915–0060.

This program is listed at 93.916 in the Catalog of Federal Domestic Assistance and is not subject to the provisions of Executive Order 12372, Intergovernmental Review of Federal Programs (as implemented through 45 CFR part 100).

Dated: September 17, 1991.

Robert G. Harmon,

Administrator.

[FR Doc. 91-27942 Filed 11-19-91; 8:45 am]

BILLING CODE 4160-15-M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[UT-050-02-4320-14]

Grazing Advisory Board Meeting

AGENCY: Bureau of land Management, Interior.

ACTION: District Grazing Advisory Board Meeting.

SUMMARY: The Richfield District Grazing Board will hold a meeting on December 17, 1991. The meeting will start at 10 a.m. in the District Office, 150 East 900 North, Richfield, Utah. the agenda will be:

1. Project material costs—GSA vrs other supply outlets.
2. Assessment report—antelope pipeline.
3. Proposed change, season-of-use, class of livestock—Dry Lake, East Piute Allotments.
4. Maintenance assessment monies, proposed levy for 92-93 grazing year—Sevier River R.A.
5. Maintenance workload vrs new construction.
6. Update of Henry Mountain R.A. planning.
7. Status of Cherry Creek AMP.

Interested persons may make oral statements to the Board between 1:15 p.m. and 2:15 p.m. or file written comments for the Board's consideration. Anyone wishing to make an oral statement must notify the District Manager, Bureau of Land Management, 150 East 900 North, Richfield, Utah 84701 (801-896-8221).

FOR FURTHER INFORMATION CONTACT: Sheril Slack, District Range Conservationist at the above address.

Dated: November 7, 1991.

Sam Rowley,

Assistant District Manager, Resources.

[FR Doc. 91-27834 Filed 11-19-91; 8:45 am]

BILLING CODE 4310-DQ-M

[UT-080-02-4830-04]

Utah Vernal District

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice.

SUMMARY: Notice is hereby given in accordance with CFR 43 1784.4-2, that the Vernal District Advisory Council will hold a business meeting on Monday, December 16, 1991, commencing at 7 p.m. The meeting will be held in the Vernal District Conference Room at 170 South 500 East, Vernal, Utah.

The sole purpose of the meeting is to receive the Advisory Council and public's comments, concerns, and recommendations pertaining to two documents: (1) The District's Draft Riparian Management Strategy Plan, and (2) the Draft Diamond Mountain Resource Management Plan/ Environmental Impact Statement.

The meeting is open to the public and persons wishing to comment concerning these two documents may do so by contacting the Vernal District Manager, David E. Little, no later than close of business December 13, 1991.

Mr. Little may be reached by phoning (801) 789-1362. Time allotted for comments will be determined by the number desiring to comment.

FOR FURTHER INFORMATION CONTACT: R. Ray Tate, Vernal District Advisory Council Coordinator, phone (801) 789-1362.

Dated: November 7, 1991.

David E. Little,

Vernal District Manager.

[FR Doc. 91-27883 Filed 11-19-91; 8:45 am]

BILLING CODE 14310-DQ-M

[UTU-64464]

Utah; Proposed Reinstatement of Terminated Oil and Gas Lease

In accordance with title IV of the Federal Oil and Gas Royalty Management Act (Pub. L. 97-451), a petition for reinstatement of oil and gas lease UTU-64464 for lands in Carbon County, Utah, was timely filed and required rentals and royalties accruing from October 1, 1991, the date of termination, have been paid.

The lessee has agreed to new lease terms for rentals and royalties at rates of $5.00 per acre and 16⅔ percent, respectively, the $500 administrative fee has been paid and the lessee has reimbursed the Bureau of Land Management for the cost of publishing this notice.

Having met all the requirements for reinstatement of lease UTU-64464 as set out in section 31 (d) and (e) of the Mineral Leasing Act of 1920 (30 U.S.C. 188), the Bureau of Land Management is proposing to reinstate the lease, effective October 1, 1991, subject to the original terms and conditions of the lease and the increased rental and royalty rates cited above.

Robert Lopez,

Chief Minerals Adjudication Section.

[FR Doc. 91-27866 Filed 11-19-91; 8:45 am]

BILLING CODE 4310-DQ-M

[OR-942-00-4730-12: GP2-037]

Filing of Plats of Survey: Oregon/ Washington

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice.

SUMMARY: The plats of survey of the following described lands are scheduled to be officially filed in the Oregon State Office, Portland, Oregon, thirty (30) calendar days from the date of this publication.

Williamette Meridian

Oregon

T. 15 S., R. 1 W., accepted September 30, 1991
T. 40 S., R. 3 W., accepted October 10, 1991
T. 36 S., R. 19 E., accepted September 20, 1991
T. 36 S., R. 20 E., accepted September 20, 1991

Washington

T. 6 N., R. 18 E., accepted September 12, 1991 (Sheets 1 & 2)

If protests against a survey, as shown on any of the above plat(s), are received prior to the date of official filing, the filing will be stayed pending consideration of the protest(s). A plat will not be officially filed until the day after all protests have been dismissed and become final or appeals from the dismissal affirmed.

The plat(s) will be placed in the open files of the Oregon State Office, Bureau of Land Management, 1300 NE 44th Avenue, Portland, Oregon 97213, and will be available to the public as a matter of information only. Copies of the plat(s) may be obtained from the above office upon required payment. A person or party who wishes to protest against a survey must file with the State Director, Bureau of Land Management, Portland, Oregon, a notice that they wish to protest prior to the proposed official filing date given above. A statement of reasons for a protest may be filed with the notice of protest to the State Director, or the statement of reasons must be filed with the State Director within thirty (30) days after the proposed official filing date.

The above-listed plats represent dependent resurveys, survey and subdivision.

FOR FURTHER INFORMATION CONTACT: Bureau of Land Management, 1300 NE

44th Avenue, P.O. Box 2965, Portland, Oregon 97208.

Dated: November 5, 1991.

Robert E. Mollohan,

Chief, Branch of Lands and Minerals Operations.

[FR Doc. 91-27884 Filed 11-19-91; 8:45 am]

BILLING CODE 4310-33-M

National Park Service

Steering Committee for the "Protecting Our National Parks" Symposium; Meeting

AGENCY: National Park Service, Interior.

ACTION: Notice of Steering Committee Meeting.

Notice is hereby given in accordance with the Federal Advisory Committee Act, 5 U.S.C. appendix (1988), that a meeting of the Steering Committee for the "Protecting Our National Parks" Symposium (now also commonly entitled, "Our National Parks: Challenges and Strategies for the 21st Century") will be held on Tuesday, December 17, 1991 in Washington, DC. The meeting will occur at the J.W. Marriott Hotel, 1331 Pennsylvania Avenue NW., Washington, DC, beginning at 9 a.m. and lasting until approximately 5 p.m.

On January 3, 1991, the Symposium Steering Committee was announced in the **Federal Register** as an advisory committee to advise the Director of the National Park Service. Acting under its charter, the Steering Committee has planned and conducted the symposium, which is a cooperative undertaking among the National Park Service and several other entities to focus on National Park System issues and opportunities for improved park stewardship. Further background information may also be obtained from a notice published in the **Federal Register** on September 19, 1991.

As is indicated in the September 19 notice, the Steering Committee established four "Working Groups" to assemble information and preliminary recommendations on specific issues and to preside over discussion of the issues at a symposium, which was held in Vail, Colorado, October 7–10, 1991. The Closing General Session of the Symposium was open to public participation to allow public comment on the Working Group recommendations as they existed at that time. Based on the symposium discussion, the four Working Groups have now completed final recommendations to the Steering Committee. Those final Working Group recommendations were made available for public review by interested parties as announced in the September 19 notice.

The public review period on the final Working Group recommendations to the Steering Committee will end on December 13, and the purpose of the Steering Committee's December 17 meeting will be to review both the Working Group recommendations and the public comments and to formulate its report to the Director. The December 17 meeting will be held in conformance with the provisions of the Federal Advisory Committee Act, including an opportunity for additional public comment. The Steering Committee Chairman may, however, restrict the length of public comments as necessary to complete the Committee's agenda by 5 p.m. Space and facilities to accommodate members of the public are limited and persons will be accommodated on a first-come, first-served basis.

Persons wishing further information on the meeting may contact the Steering Committee Chairman, Mr. William J. Briggle, Pacific Northwest Region, National Park Service, 83 South King Street, suite 212, Seattle, Washington 98104 (telephone 206–553–4653).

Herbert S. Cables, Jr.,

Deputy Director.

[FR Doc. 91-27902 Filed 11-19-91; 8:45 am]

BILLING CODE 4310-70-M

INTERNATIONAL TRADE COMMISSION

[Investigations No. 701-TA-311 (Preliminary) and Nos. 731-TA-532 Through 537 (Preliminary)]

Certain Circular, Welded, Non-Alloy Steel Pipes and Tubes From Brazil, the Republic of Korea, Mexico, Romania, Taiwan, and Venezuela

Determinations

On the basis of the record [1] developed in the subject investigations, the Commission unanimously determines, pursuant to section 703(a) of the Tariff Act of 1930 (19 U.S.C. 1671b(a)), that there is a reasonable indication that an industry in the United States is materially injured by reason of imports from Brazil of certain circular, welded, non-alloy steel pipes and tubes,[2] that are alleged to be subsidized by the Government of Brazil. The Commission also determines,[3] pursuant to section 733(a) of the Tariff Act of 1930 (19 U.S.C. 1673b(a)), that there is a reasonable indication that an industry in the United States is materially injured by reason of imports from Brazil, the Republic of Korea, Mexico, Romania, Taiwan, and Venezuela of certain circular, welded, non-alloy steel pipes and tubes,[4] that are alleged to be sold in the United States at less than fair value (LTFV).

Background

On September 24, 1991, petitions were filed with the Commission and the Department of Commerce. The petitioners are Allied Tube & Conduit Corp., Harvey, IL; American Tube Co., Phoenix, AZ; Bull Moose Tube Co., Gerald, MO; Century Tube Corp., Pine Bluff, AR; Sawhill Tubular Div., Cyclops Corp., Sharon, PA; Laclede Steel Co., St. Louis MO; Sharon Tube Co., Sharon, PA; Western Tube & Conduit Corp., Long Beach, CA; and Wheatland Tube Co., Collingswood, NJ. The petitions allege that an industry in the United States is materially injured and is threatened with material injury by reason of subsidized imports of certain circular, welded, non-alloy steel pipes and tubes from Brazil and by reason of LTFV imports of certain circular, welded, non-alloy steel pipes and tubes from Brazil, the Republic of Korea, Mexico,

[1] The record is defined in § 207.2(f) of the Commission's Rules of Practice and Procedure (19 CFR 207.2(f)).

[2] For purposes of this investigation, "certain circular, welded, non-alloy steel pipes and tubes" are welded, non-alloy steel pipes and tubes, of circular cross section, not more than 406.4 mm (16 inches) in outside diameter, regardless of wall thickness, surface finish (black, galvanized, or painted), or end finish (plain end, bevelled end, threaded, or threaded and coupled), provided for in subheadings 7306.30.10 and 7306.30.50 of the Harmonized Tariff Schedule of the United States.

[3] Commissioner Brunsdale dissenting with respect to imports from Romania.

[4] For purposes of the investigations involving Brazil, the Republic of Korea, Mexico, Romania and Venezuela, "certain circular, welded, non-alloy steel pipes and tubes" are welded, non-alloy steel pipes and tubes of circular cross section, regardless of wall thickness, surface finish (black, galvanized, or painted), or end finish (plain end, bevelled end, threaded, or threaded and coupled), not more than 406.4 mm (16 inches) in outside diameter, provided for in subheadings 7306.30.10 and 7306.30.50 of the Harmonized Tariff Schedule of the United States. For the investigation concerning imports from Taiwan, "certain circular, welded, non-alloy steel pipes and tubes" are welded, non-alloy steel pipes and tubes of circular cross section, with a wall thickness of less than 1.65 mm (0.065 inch), less than 406.4 mm (16 inches) in outside diameter, regardless of surface finish (black, galvanized, or painted) or end finish (plain end, bevelled end, threaded, or threaded and coupled), provided for in subheading 7306.30.10, and welded, non-alloy steel pipes and tubes of circular cross section over 114.3 mm (4.5 inches) but not more than 406.4 mm (16 inches) in outside diameter, with a wall thickness of 1.65 mm (0.065 inch) or more, regardless of surface finish (black, galvanized, or painted) or end finish (plain end, bevelled end, threaded, or threaded and coupled), provided for in subheading 7306.30.50 of the Harmonized Tariff Schedule of the United States.

Romania, Taiwan, and Venezuela. Accordingly, effective September 24, 1991, the Commission instituted countervailing duty investigation No. 701–TA–311 (Preliminary) and antidumping investigations Nos. 731–TA–532 through 537 (Preliminary).

Notice of the institution of the Commission's investigations and of a public conference to be held in connection therewith was posted in the Office of the Secretary, U.S. International Trade Commission, Washington, DC, and published in the **Federal Register** of October 2, 1991 (56 FR 49903). The conference was held in Washington, DC, on October 15, 1991, and all persons who requested the opportunity were permitted to appear in person or by counsel.

The Commission transmitted its determinations in these investigations to the Secretary of Commerce on November 8, 1991. The views of the Commission are contained in USITC Publication 2454 (November 1991) entitled "Certain Circular, Welded, Non-alloy Steel Pipes and Tubes from Brazil, the Republic of Korea, Mexico, Romania, Taiwan, and Venezuela: Determination of the Commission in Investigation No. 701–TA–311 (Preliminary) Under the Tariff Act of 1930, Together With the Information Obtained in the Investigation and Determinations of the Commission in Investigations Nos. 731–TA–532 through 537 (Preliminary) Under the Tariff Act of 1930, Together With the Information Obtained in the Investigations."

Dated: November 12, 1991.

By Order of the Commission:

Kenneth R. Mason,

Secretary.

[FR Doc. 91–27899 Filed 11–19–91; 8:45 am]

BILLING CODE 7020–02–M

[Investigation 337–TA–326]

Certain Scanning Multiple-Beam Equalization Systems for Chest Radiography and Components Thereof; Initial Determination Terminating Respondents on the Basis of Settlement Agreement

AGENCY: U.S. International Trade Commission.

ACTION: Notice is hereby given that the Commission has received an initial determination from the presiding officer in the above captioned investigation terminating the following respondents on the basis of a settlement agreement: Oldelft Corporation of America, BV Optische Industrie De Oude Delft, and Delft Instruments Medical Imaging BV.

SUPPLEMENTARY INFORMATION: This investigation is being conducted pursuant to section 337 of the Tariff Act of 1930 (19 U.S.C. 1337). Under the Commission's rules, the presiding officer's initial determination will become the determination of the Commission thirty (30) days after the date of its service upon the parties, unless the Commission orders review of the initial determination. The initial determination in this matter was served upon parties on November 14, 1991.

Copies of the initial determination, the settlement agreement, and all other nonconfidential documents filed in connection with this investigation are available for inspection during official business hours (8:45 a.m. to 5:15 p.m.) in the Office of the Secretary, U.S. International Trade Commission, 500 E Street, SW., Washington, DC 20436, telephone (202) 205–2000. Hearing impaired individuals are advised that information on this matter can be obtained by contacting the Commission's TDD terminal on (202) 205–1810.

WRITTEN COMMENTS: Interested persons may file written comments with the Commission concerning termination of the aforementioned respondents. The original and 14 copies of all such documents must be filed with the Secretary to the Commission, 500 E Street, SW., Washington, DC 20436, no later than 10 days after publication of this notice in the **Federal Register**. Any person desiring to submit a document (or portions thereof) to the Commission in confidence must request confidential treatment. Such requests should be directed to the Secretary to the Commission and must include a full statement of the reasons why confidential treatment should be granted. The Commission will either accept the submission in confidence or return it.

FOR FURTHER INFORMATION CONTACT: Ruby J. Dionne, Office of the Secretary, U.S. International Trade Commission, Telephone (202) 205–1802.

Issued: November 14, 1991.

By order of the Commission.

Kenneth R. Mason,

Secretary.

[FR Doc. 91–27901 Filed 11–19–91; 8:45 am]

BILLING CODE 7028–02–M

DEPARTMENT OF JUSTICE

Lodging a Final Judgment by Consent Pursuant to the Comprehensive Environmental Response, Compensation and Liability Act

Notice is hereby given that on November 6, 1991 a proposed consent decree in *United States* v. *Elmer Burrows et al.* was lodged with the United States District Court for the Western District of Michigan. The decree pertains to the Burrows Sanitary Landfill Site (the "Site"), located in Hartford, Michigan.

The proposed consent decree requires defendants Douglas and Georgia MacKinder to pay the United States $15,000 for past costs incurred by the United States in connection with the Site and to provide the United States and the State of Michigan and their representatives, including the United States Environmental Protection Agency ("EPA") and the Michigan Department of Natural Resources and their contractors, and all other persons performing response actions under EPA's oversight, access to the Site to implement response actions at the Site.

The Department of Justice will receive comments relating to the proposed consent decree for a period of thirty days from the date of publication of this notice. Comments should be addressed to the Assistant Attorney General, Environmental and Natural Resources Division, Department of Justice, Washington, DC 20530, and should refer to *United States* v. *Elmer Burrows et al.* (W.D. Mich.) and DOJ Ref. No. 90–11–2–223. The proposed consent decree may be examined at the office of the United States Attorney, Western District of Michigan, 399 Federal Building, 110 Michigan NW., Grand Rapids, Michigan 49503, or at the office of the Environmental Protection Agency, Region V, 230 South Dearborn Street, Chicago, Illinois, 60604. A copy of the proposed consent decree may also be examined at the Environmental Enforcement Section Document Center, 601 Pennsylvania Ave., NW., P.O. 1097 Washington, DC 20004. A copy of the proposed consent decree may be obtained in person or by mail from the Document Center. In requesting a copy please enclose a check in the amount of $3.00 (25 cents per page reproduction

costs) payable to "Consent Decree Library."

Barry M. Hartman,

Acting Assistant Attorney General, Environmental and Natural Resources Division.

[FR Doc. 91-27886 Filed 11-19-91; 8:45 am]

BILLING CODE 4410-01-M

Consent Judgment in Action to Enjoin Violation of the Clean Air Act ("CAA")

In accordance with Departmental Policy, 28 CFR 50.7, 38 FR 19029, notice is hereby given that a Consent Decree in *United States* v. *Rexham Corporation* (D.N.J.), Civil Action No. 91-48-58 (AET) was lodged with the United States District Court for the District of New Jersey on November 1, 1991. The Consent Decree provides for penalties for violations of the Clean Air Act, 42 U.S.C. 7401 *et seq.*, and the New Jersey State Implementation Plan, concerning permit requirements for major sources, and enjoins Rexham from further violations of the Act.

The Department of Justice will receive for thirty (30) days from the date of publication of this notice, written comments relating to the Consent Decree. Comments should be addressed to the Assistant Attorney General, Environment and Natural Resources Division, Department of Justice, Washington, DC 20530 and should refer to *United States* v. *Rexham Corporation*, D.O.J. Ref. No. 90-5-2-1-1495.

The Consent Decree may be examined at the office of the United States Attorney, 970 Broad Street, room 502, Newark, New Jersey 07101; at the Region II Office of the Environmental Protection Agency, 26 Federal Plaza, New York, New York 10278; and the Environmental Enforcement Section Document Center, 601 Pennsylvania Avenue Building, NW., Washington, DC 20004 (202-347-2072). A copy of the Consent Decree may be obtained in person or by mail from the Environmental Enforcement Section Document Center, 601 Pennsylvania Avenue, NW., Box 1097, Washington, DC 20004. In requesting a copy, please enclose a check in the amount of $2.75 (for copying costs) payable to Consent Decree Library.

Barry M. Hartman,

Acting Assistant Attorney General, Environment and Natural Resources Division.

[FR Doc. 91-27887 Filed 11-19-91; 8:45 am]

BILLING CODE 4410-01-M

Lodging of Consent Decree Pursuant to the Clean Air Act

In accordance with Departmental policy, 28 CFR 50.7, notice is hereby given that a proposed consent decree in *United States* v. *USX Corporation*, Civil Action No. 89-0371 (E.D. Pa.), was lodged on October 4, 1991 with United States District Court for the Eastern District of Pennsylvania. The Decree provides for the payment of a civil penalty of $700,000 in settlement of alleged violations of the Pennsylvania State Implementation Plan and the Clean Air Act at the USX Fairless Works steel facility in Fairless Hills, Pennsylvania. The Decree also imposes obligations to ensure that the plant achieves and maintains compliance with the Pennsylvania SIP.

The Department of Justice will receive, for a period of thirty (30) days from the date of this publication, comments relating to the proposed consent decree. Comments should be addressed to the Assistant Attorney General for the Environment and Natural Resources Division, Department of Justice, Washington, DC 20530, and should refer to *United States* v. *USX Corporation*, Civil Action No. 89-0371 (E.D. Pa.), DOJ reference #90-5-2-3-987B.

The proposed consent decree may be examined at the Office of the United States Attorney for the Eastern District of Pennsylvania, 3310 U.S. Courthouse, 601 Market Street, Independence Mall West, Philadelphia, PA 19106, and at the Environmental Enforcement Section Document Center, 601 Pennsylvania Ave., NW., Box 1097, Washington, DC 20004, (202) 347-2072. A copy of the proposed consent decree may be obtained in person or by mail from the Document Center. In requesting a copy, please enclose a check in the amount of $11.00 (25 cents per page reproduction costs), payable to "Consent Decree Library".

John C. Cruden,

Environment and Natural Resources Division, Environmental Enforcement Section.

[FR Doc. 91-27885 Filed 11-19-91; 8:45 am]

BILLING CODE 4410-01-M

Lodging of Consent Decree Pursuant to the Comprehensive Environmental Response, Compensation, and Liability Act

In accordance with section 122(i) of the Comprehensive Environmental Response, Compensation and Liability Act, as amended (CERCLA), 42 U.S.C. 9622(i), and Departmental policy at 28 CFR 50.7, notice is hereby given that on November 5, 1991, a proposed consent decree in *United States* v. *Wallace, et al.* (Northwest Transformer Site), Civil Action No. C88-605C, was lodged with the United States District Court for the Western District of Washington. The complaint, as amended, alleged that a number of generator and owner/operator defendants are liable under sections 106 and 107 of CERCLA, 42 U.S.C. 9606 and 9607, for injunctive relief and cost-recovery arising out of the release of PCBs at the Northwest Transformer Site, a transformer repair and servicing yard, near Everson, Washington. Pursuant to the proposed consent decree, the settling parties will undertake and complete the remedy at the Site in accordance with the Record of Decision, as revised. In addition, the United States will receive: (1) $1,225,000 to reimburse the Superfund for past response costs; and (2) payment of future response costs. This is the second consent decree lodged in this action. On July 12, 1991, United States District Judge John Coughenour entered a consent decree between the United States and owner/operator defendants in the case under which the United States received $460,000 to reimburse the Superfund for past response costs.

The Department of Justice, for a period of thirty (30) days from the date of this publication, will receive comments relating to the proposed consent decree. Comments should be addressed to the Assistant Attorney General, Environment and Natural Resources Division, Department of Justice, Washington, DC 20530, and should refer to *United States* v. *Wallace, et al.*, Department of Justice reference number 90-11-3-341.

The proposed consent decree may be examined at the Office of the U.S. Environmental Protection Agency, Region 10, 1200 Sixth Avenue, Seattle, Washington 98101 and at the Environmental Enforcement Section Document Center, 601 Pennsylvania Avenue Building, NW., Washington, DC 20004, (202) 347-2072. A copy of the proposed consent decree may be obtained in person or by mail from the Environmental Enforcement Section Document Center, 601 Pennsylvania Avenue, NW., Box 1097, Washington, DC 20004. In requesting a copy, please enclose a check in the amount of $42.75 (25 cents per page reproduction costs) payable to "Consent Decree Library." If a copy of any of the Attachments to the consent decree is also desired, please contact the Environmental Enforcement Document Center in order to ascertain the cost of the materials requested. When requesting a copy, please refer to

United States v. *Wallace, et al.*, Department of Justice 90–11–3–341.

Barry M. Hartman,

Acting Assistant Attorney General Environment and Natural Resources Division.

[FR Doc. 91–27888 Filed 11–19–91; 8:45 am]

BILLING CODE 4410–10–M

DEPARTMENT OF LABOR

Bureau of Labor Statistics

Labor Research Advisory Council; Meetings and Agenda

The Fall meetings of committees of the Labor Research Advisory Council will be held on December 3, 4, and 5. All of the meetings will be held in the General Accounting Office Building, 441 G Street NW., Washington, DC.

The Labor Research Advisory Council and its committees advise the Bureau of Labor Statistics with respect to technical matters associated with the Bureau's programs. Membership consists of union research directors and staff members. The schedule and agenda of the meetings are as follows.

Tuesday, December 3, 1991

9:30 a.m.—Committee on Employment and Unemployment Statistics—Room 2734

1. Budget status and overview
2. Employee Turnover and Job Openings: Final Report
3 Foreign Direct Investment Project
4 CPS Questionnaire Redesign
5 North American Free Trade Agreement

1:30 p.m.—Committee on Prices and Living Conditions—Room 2734

1. Interarea Price Indexes: Research Results
2. Quality adjustment in the CPI
3. Low income consumers in the CE: Expenditures vs income

Wednesday, December 4, 1991

10 a.m.—Committee on Occupational Safety and Health Statistics—Room 2736

1. 1990 annual survey
2. FY 1991/92 program budgets
3. Program redesign
   a. Redesign of the occupational safety and health statistical survey
   b. Census of Fatal Occupational Injuries
4. Other business

Thursday, December 5, 1991

9:30 a.m.—Committee on Wages and Industrial Relations—Room 2734

1. Results from a First Time Survey of Employee Benefits in Small Establishments
2. Publication of Employers' Cost Levels for Employee Compensation by Size of Establishment using data collected for the Employment Cost Index Survey
3. Compensation and Working Conditions: What's in a name?
4. Other business

1:30 p.m.—Committee on Productivity, Technology and Growth Committee on Foreign Labor—Room 2734

1. Discussion of new BLS projections to 2005
2. BLS work on information technology equipment and embodied technical change
3. BLS work with Eastern European and Mexican Statistical organizations.

The meetings are open to the public. Persons planning to attend these meetings as observers may want to contact Wilhelmina Abner on (Area Code 202) 523–1327.

Signed at Washington, DC this 14th day of November 1991.

Janet L. Norwood,

Commissioner of Labor Statistics.

[FR Doc. 91–27921 Filed 11–19–91; 8:45 am]

BILLING CODE 4510–24–M

NATIONAL COMMUNICATIONS SYSTEM

Telecommunications Service Priority System Oversight Committee; Meeting

A meeting of the Telecommunications Service Priority (TSP) System Oversight Committee will convene Wednesday, December 4, 1991, from 9 a.m. to 4 p.m. The meeting will be held at Bellcore, 2101 L Street NW., Washington, DC. The agenda is as follows:

A. Committee Administration,
B. Report from TSP Ad Hoc Working Group,
C. Discussion of Oversight Committee Report to the Manager, NCS,
D. Discussion of TSP Tariffs.

Any person desiring information about the meeting may telephone (703) 692–9274 or write the Manager, National Communications System, 701 S. Court House Road, Arlington, VA 22204–2199.

Betsy B. McDonald,

Chief, Corporate Exchange Branch.

Dennis I. Parsons,

Captain, USN, Assistant Manager, NCS Joint Secretariat.

[FR Doc. 91–27903 Filed 11–19–91; 8:45 am]

BILLING CODE 3610–05–M

NUCLEAR REGULATORY COMMISSION

[Docket Nos. 50–54 and 70–687]

Cintichem, Inc.; Issuance of Environmental Assessment and Finding of No Significant Impact

The U.S. Nuclear Regulatory Commission (the Commission) is considering the issuance of an order and a license amendment authorizing decommissioning of those areas of the Cintichem, Inc., facility located in Tuxedo, New York subject to regulation by the Commission. The decommissioning involves dismantlement and decontamination of the Reactor Building, Laboratory/Hot Cell Building and Waste Storage Building.

Description of Proposed Action

The proposed action is the issuance of a License Amendment and Order authorizing the licensee to perform decommissioning activities at Cintichem's facility in Tuxedo, New York as requested by Cintichem in their application dated October 19, 1990, as supplemented. The purpose of the proposed decommissioning is limited to the removal of radioactive components and contamination from the Reactor, Laboratory/Hot Cell and Waste Storage Buildings and the surrounding areas, and the termination of the NRC licenses associated with the operations carried out in these areas. At the completion of the decommissioning activities and after verification by the Commission that residual radioactivity levels have been met, the buildings and surroundings areas will be released for unrestricted use.

The buildings and associated equipment and components will be disassembled and either decontaminated or sent to a radioactive waste disposal facility. Decontamination will be accomplished by cleaning or removal of the contaminated structural components and the remaining structures will be razed or buried in place.

Environmental Impacts

The NRC staff has reviewed the proposed decommissioning and its effect on the environment. To document its review, the staff has prepared an Environmental Assessment (EA). The EA considered the radiological and non-radiological impacts associated with the proposed action and, based on the fact that all proposed operations and radiological control procedures are carefully planned and controlled, determined that the exposures to personnel and the public were within the limits of 10 CFR part 20 and are as low as reasonably achievable (ALARA).

Based on the review of the specific proposed activities associated with the dismantling and decontamination of the Cintichem facility, the staff has determined that there will be no significant increase in the amounts of effluents that may be released offsite, and no significant increase in individual or cumulative occupational or population radiation exposure.

Finding of No Significant Impact

The staff has reviewed the proposed decommissioning, relative to the requirements set forth in 10 CFR part 51. Based upon the Environmental Assessment, the staff concluded that there are no significant environmental impacts associated with the proposed action and that the proposed action will not have a significant effect on the quality of the human environment. Therefore, the Commission had determined, pursuant to 10 CFR 51.31, not to prepare an environmental impact statement for the proposed amendment. For further details with respect to this action, see: (1) The licensee's application for authorization to decommission the facility, dated October 19, 1990, as supplemented January 11, 14, 28, February 19, March 8, April 24, May 21, June 25, July 17, August 6, and October 2, 1991; (2) the Commission's related Safety Evaluation Report; and (3) the Environmental Assessment, dated September 1991. These documents are available for public inspection at the Commission's Public Document Room, 2120 L Street, NW., Washington, DC 20555. Copies of items (2) and (3) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, DC 20555, Attention: Director, Division of Advanced Reactors and Special Projects.

Dated: November 4, 1991.

For the U.S. Nuclear Regulatory Commission.

John H. Austin, Chief,

Decommissioning and Regulatory Issues Branch, Division of Low-Level Waste Management and Decommissioning, Office of Nuclear Material Safety and Safeguards.

Seymour H. Weiss,

Director, Non-Power Reactors, Decommissioning and Environmental Project Directorate Division of Advanced Reactors and Special Projects, Office of Nuclear Reactor Regulation.

[FR Doc. 91-27918 Filed 11-19-91; 8:45 am]

BILLING CODE 7590-01-M

[Docket No. 50-213]

Connecticut Yankee Atomic Power Co.; Environmental Assessment and Finding of No Significant Impact

The U.S. Nuclear Regulatory Commission (the Commission) is considering issuance of a schedular exemption from the requirements of 10 CFR part 50, appendix J to the Connecticut Yankee Atomic Power Company (CYAPCO or the licensee) for the Haddam Neck Plant, located at the licensee's site in Middlesex County, Connecticut.

Environmental Assessment

Identification of the Proposed Action

The proposed action would grant a schedular exemption from 10 CFR part 50, appendix J for the requirements of section III.A.6.(b), Type A test. The proposed action is in accordance with the licensee's request for exemption dated August 12, 1991.

The Need for the Proposed Action

One of the conditions of all operating licenses for water-cooled power reactors, as specified in 10 CFR 50.54(o), is that primary reactor containments shall meet the containment leakage test requirements set forth in 10 CFR part 50, appendix J.

The licensee has proposed the requested exemption because performing the Type A test as required by appendix J would not serve the underlying purpose of the rule and is not necessary to achieve the underlying purpose of the rule.

Environmental Impacts of the Proposed Action

The proposed exemption would postpone the Type A test approximately 14 months. The NRC staff has reviewed this proposed exemption and concluded the extension of the test period for the Type A test will not compromise containment integrity. This conclusion is based, in general, on an aggressive program to limit Type C leakage and the success of the program based on the successful Type A test performed during the 1989 refueling outage.

Thus, radiological releases will not differ from those determined previously and the proposed exemption does not otherwise affect facility radiological effluent or occupational exposures. With regard to potential nonradiological impacts, the proposed exemption does not affect plant nonradiological effluents and has no other environmental impact. Therefore, the Commission concludes there are no measurable radiological or nonradiological environmental impacts associated with the proposed exemption.

Alternatives to the Proposed Action

Since the Commission has concluded there is no measurable environmental impact associated with the proposed exemption, any alternative with equal or greater environmental impact need not be evaluated. The principal alternative to the schedular exemption would be to deny the exemption requested. Such action would not enhance the protection of the environment and would result in unjustified costs for the licensee.

Alternative Use of Resources

This action does not involve the use of resources not considered previously in the Final Environmental Statement for Haddam Neck.

Agencies and Persons Consulted

The NRC staff reviewed the licensee's request and did not consult other agencies or persons.

Finding of No Significant Impact

Based upon the environmental assessment, the Commission concludes that the proposed action will not have a significant effect on the quality of the human environment. Accordingly, the Commission has determined not to prepare an environmental impact statement for the proposed exemption.

For further details with respect to this proposed action, see the licensee's letter dated August 12, 1991. This letter is available for public inspection at the Commission's Public Document Room, the Gelman Building, 2120 L Street, NW., Washington, DC, and at local public document room located at the Russell Library, 123 Broad Street, Middletown, Connecticut 06547.

Dated At Rockville, Maryland this 12th day of November, 1991.

For The Nuclear Regulatory Commission.

John F. Stolz,

Director, Project Directorate I–4, Division of Reactor Projects—I/II, Office Nuclear Reactor Regulation.

[FR Doc. 91–27917 Filed 11–19–91; 8:45 am]

BILLING CODE 7590–01–M

Advisory Committee on Reactor Safeguards Subcommittee on Improved Light Water Reactors; Cancellation

Notice of an open meeting of the ACRS Subcommittee on Improved Light Water Reactors to be held on Wednesday, November 20, 1991 at 7920 Norfolk Avenue, room P–422, Bethesda, MD was published in the **Federal Register** on Wednesday, November 13, 1991 (56 FR 57686). Since additional time is required to resolve the open issues related to Chapter 10 of the EPRI Requirements Document for evolutionary designs the meeting has been postponed. A notice of this meeting will be published in the **Federal Register** at the appropriate time.

For further information contact: Mr. Medhat El-Zeftawy (telephone 301/492–9901) between 7:30 a.m. and 4:15 p.m.

Dated: November 14, 1991.

Gary R. Quittschreiber,

Chief Nuclear Reactors Branch.

[FR Doc. 91–27938 Filed 11–19–91; 8:45 am]

BILLING CODE 7590–01–M

Advisory Committee on Reactor Safeguards, Joint Subcommittees on Advanced Boiling Water Reactors and Computers in Nuclear Power Plant Operations; Revised

A portion of the ACRS Subcommittee meeting on Advanced Boiling Water Reactors and Computers in Nuclear Power Plant Operations scheduled for November 21, 1991, will be closed to discuss Proprietary Information (5 U.S.C. 552b(c)(4)). All other items pertaining to this meeting remain the same as published previously in the **Federal Register** on Wednesday, November 13, 1991 (56 FR 57687).

Further information regarding topics to be discussed, the scheduling of sessions open to the public, whether the meeting has been cancelled or rescheduled, the Chairman's ruling on requests for the opportunity to present oral statements and the time allotted therefor can be obtained by a prepaid telephone call to the cognizant ACRS staff member, Mr. Medhat El-Zeftawy (telephone 301/492–9901) between 7:30 a.m. and 4:15 p.m. Persons planning to attend this meeting are urged to contact the above named individual one or two days before the scheduled meeting to be advised of any changes in schedule, etc., that may have occurred.

Dated: November 14, 1991.

Gary R. Quittschreiber,

Chief, Nuclear Reactors Branch.

[FR Doc. 91–27939 Filed 11–19–91; 8:45 am]

BILLING CODE 7590–01–M

Privacy Act of 1974; Establishment of a New System of Records, Correction

AGENCY: Nuclear Regulatory Commission.

ACTION: Establishment of a new system of records: Correction.

SUMMARY: This document corrects a notice appearing in the **Federal Register** on October 8, 1991 (56 FR 50735). The action is necessary to correct a citation to the Public Law that allows Federal agencies to participate in a State or local program that encourages employees to use public transportation.

On page 50736, in the first column, in the first line under the heading **"Authority for Maintenance of the System:,"** "Public Law 101–159" should read "Public Law 101–509."

Dated at Rockville, Maryland, this 15th day of November 1991.

For the Nuclear Regulatory Commission.

Donnie H. Grimsley,

Director, Division of Freedom of Information and Publications Services, Office of Administration.

[FR Doc. 91–27919 Filed 11–19–91; 8:45 am]

BILLING CODE 7590–01–M

[Docket No. 50–219]

GPU Nuclear Corp. and Jersey Central Power & Light Co., (Oyster Creek Nuclear Generating Station); Exemption

I.

The GPU Nuclear Corporation and Jersey Central Power & Light Company (GPUN/the licensee) are the holders of Facility Operating License No. DPR–16, which authorizes operation of the Oyster Creek Nuclear Generating Station, (the facility) at steady state reactor core power levels not in excess of 1930 megawatts thermal. The license provides, among other things, that it is subject to all rules, regulations, and Orders of the Commission now or hereafter in affect.

The facility is a boiling water reactor located at the licensee's site in Ocean County, New Jersey.

II.

On November 19, 1980, the NRC published a revised Code of Federal Regulations, 10 CFR 50.48 and a new appendix R to 10 CFR part 50 regarding fire protection features of nuclear power plants. The revised § 50.48 and appendix R became effective on February 17, 1981. Section III of appendix R contains fifteen (15) subsections, lettered A through O, each of which specifies requirements for a particular aspect of the fire protection features at a nuclear power plant. One of these 15 subsections, III.G and specifically section III.G.2.c, is the subject of this exemption. Section III.G relates to fire protection of safe shutdown capability and the specific purpose of section III.G.2.c is that it requires enclosure of cable and equipment and associated non-safety circuits of one redundant train in a fire barrier having a 1-hour rating. In addition, fire detectors and an automatic fire suppression system shall be installed in the fire area.

III.

By letter dated May 18, 1991, the licensee requested an exemption from the requirements of section III.G of appendix R to 10 CFR part 50. Specifically the licensee requested an exemption to section III.G.2.c to not provide a one hour rated fire barrier for the power cable associated with IC–B condensate return valve V–14–37 located in the fire area RB–FZ–ID on elevation 51'–3" in the reactor building. The basis for the requested exemption is that a fire affecting the power cable would not affect the plant's ability to achieve safe shutdown since the valve is normally open and the failure mechanism of the power cable fails open.

The staff has reviewed the licensee's request and the supporting technical information contained in the licensee's May 17, 1991 letter. Based upon our review of this information the staff finds that a single fire in fire zone RB–FZ–ID is not likely to cause valve V–14–37 to close and cause loss of ability to reopen the valve because of: (1) Low combustible fuel loading in the zone, (2) automatic and manual fire suppression and automatic fire detection capability in the fire zone, (3) necessity to damage the Isolation Condenser B(IC–B) high flow logic circuit first and then power cable 12GP0816 in that sequence, and (4) locating of the IC–B high flow logic circuit and power cable 12GP0816 in diagonal corners of fire zone RB–FZ–ID, separated from each other by approximately 92 feet and by the dry

well structure and various non-fire rated compartment walls. On this basis, we conclude that the combination of specific damage and sequence of events is so remote that a fire would not have any affect on the plant's ability to achieve safe shutdown.

Accordingly, the Commission has determined that, pursuant to 10 CFR 50.12, this exemption is authorized by law, will not present an undue risk to the public health and safety, and is consistent with the common defense and security. The Commission has further determined that special circumstances, as set forth in 10 CFR 50.12(a)(2)(ii), are present justifying the exemption, namely that the application of the regulation in the particular circumstances is not necessary to achieve the underlying purpose of the rule since the level of protection by the conditions discussed above meets the intent to that which could be provided by strict compliance with the provisions of section III.G.2.C of appendix R to 10 CFR part 50. Accordingly, the Commission hereby grants an exemption as described in section III above from the requirements of section III.G of appendix R to 10 CFR part 50.

Pursuant to 10 CFR 51.32, the Commission has determined that the granting of this exemption will have no significant impact on the human environment (56 FR 57534).

This exemption is effective upon issuance.

Dated at Rockville, Maryland this 12th day of November, 1991.

For the Nuclear Regulatory Commission.

Steven A. Varga,

Director, Division of Reactor Projects—I/II Office of Nuclear Reactor Regulation.

[FR Doc. 91-27916 Filed 11-19-91; 8:45 am]

BILLING CODE 7590-01-M

[Docket No. 030-29626-OM; ASLBP No. 92-653-02-OM]

Piping Specialists, Inc.; Establishment of Atomic Safety and Licensing Board

Pursuant to delegation by the Commission dated December 29, 1972, published in the **Federal Register**, 37 FR 28710 (1972), and §§ 2.105, 2.700, 2.702, 2.714, 2.714a, 2.717 and 2.721 of the Commission's Regulations, all as amended, an Atomic Safety and Licensing Board is being established in the following proceeding.

Piping Specialists, Inc.

Byproduct Material License No. 24-24826-01 EA 91-136

This Board is being established pursuant to the request by Piping Specialists, Inc., the Licensee, for a hearing regarding an Order issued by the Director, Office of Enforcement, dated October 17, 1991, entitled "Order Suspending License (Effective Immediately)" (56 FR 55514, October 28, 1991). The Order suspended the license pending further action by the Commission and directed the Licensee to take certain remedial actions.

An Order designating the time and place of any hearing will be issued at a later date.

All correspondence, documents and other materials shall be filed in accordance with 10 CFR 2.701. The Board is comprised of the following Administrative Judges:

Peter B. Bloch, Chairman, Atomic Safety and Licensing Board Panel, U.S. Nuclear Regulatory Commission, Washington, DC 20555.

Dr. Jerry R. Kline, Atomic Safety and Licensing Board Panel, U.S. Nuclear Regulatory Commission, Washington, DC 20555.

Dr. Peter S. Lam, Atomic Safety and Licensing Board Panel, U.S. Nuclear Regulatory Commission, Washington, DC 20555.

Issued at Bethesda, Maryland, this 14th day of November 1991.

B. Paul Cotter, Jr.,

Chief Administrative Judge, Atomic Safety and Licensing Board Panel.

[FR Doc. 91-27920 Filed 11-19-91; 8:45 am]

BILLING CODE 7590-01-M

OFFICE OF MANAGEMENT AND BUDGET

Cumulative Report on Rescissions and Deferrals

November 1, 1991.

This report is submitted in fulfillment of the requirement of section 1014(e) of the Congressional Budget and Impoundment Control Act of 1974 (Pub. L. 93-344). Section 1014(e) requires a monthly report listing all budget authority for this fiscal year for which, as of the first day of the month, a special message has been transmitted to Congress.

This report gives the status, as of November 1, 1991, of seven deferrals contained in the first special message for FY 1992. This message was transmitted to Congress on September 30, 1991.

Rescissions

As of the date of this report, no rescission proposals are pending before the Congress.

Deferrals (Table A and Attachment A)

As of November 1, 1991, $1,817.0 million in budget authority was being deferred from obligation. Attachment A shows the history and status of each deferral reported during FY 1992.

Information from Special Message

The special message containing information on deferrals that are covered by this cumulative report is printed in the **Federal Register** cited below:

56 FR 50620, Monday, October 7, 1991.

Richard Darman,

Director.

TABLE A.—STATUS OF FY 1992 DEFERRALS

	Amounts (in millions of dollars)
Deferrals proposed by the President	1,817.0
Routine Executive releases through November 1, 1991	—
Overturned by the Congress	—
Currently before the Congress	1,817.0

ATTACHMENT A.—STATUS OF FY 1992 DEFERRALS—AS OF NOVEMBER 1, 1991

[Amounts in thousands of dollars]

Agency/bureau/account	Deferral No.	Amounts transmitted			Releases (–)		Congressional action	Cumulative adjustments (+)	Amount deferred as of 11-1-91
		Original request	Subsequent change (+)	Date of message	Cumulative OMB/agency	Congressionally required			
Funds appropriated to the President:									
International Security Assistance									
Economic support fund	D92-1	244,777		09-30-91					244,777
Agency for International Development									
International disaster assistance, Executive.	D92-2	40,704		09-30-91					40,704
Department of Agriculture:									
Forest Service									
Cooperative work	D92-3	482,378		09-30-91					482,378
Department of Defense—Civil:									
Wildlife Conservation, Military Reservations									
Wildlife conservation, Defense	D92-4	1,416		09-30-91					1,416
Department of Health and Human Services:									
Social Security Administration									
Limitation on administrative expenses	D92-5	7,317		09-30-91					7,317
Department of State:									
Bureau for Refugee Programs									
United States emergency refugee and migration assistance fund, executive.	D92-6	30,053		09-30-91					30,053
Department of Transportation:									
Federal Aviation Administration									
Facilities and equipment (Airport and airway trust fund).	D92-7	1,010,375		09-30-91					1,010,375
Total, Deferrals		1,817,020	0		0	0		0	1,817,020

[FR Doc. 91-27858 Filed 11-19-91; 8:45 am]
BILLING CODE 3110-01-M

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-29934; File No. SR-Amex-91-24]

Self-Regulatory Organizations; Filing and Order Granting Accelerated Approval of Proposed Rule Change by the American Stock Exchange, Inc., Relating to the Listing of Capped-Style Stock Index Options

November 13, 1991.

I. Introduction

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"), 15 U.S.C. 78s(b)(1), and Rule 19b-4 thereunder,[1] the American Stock Exchange, Inc. ("Amex" or "Exchange") filed with the Securities and Exchange Commission ("Commission" or "SEC") a proposed rule change to allow the Exchange to list capped-style stock index options ("capped options") on domestic broad-based stock indexes.[2]

The proposed rule change was published for comment in Securities Exchange Act Release No. 29821 (October 15, 1991), 56 FR 54595. The Commission received no comments regarding the proposal.[3]

II. Description of the Proposal

A capped option is an option that will be automatically exercised prior to expiration if the exercises settlement value [4] for the option on any trading day equals or exceeds (in the case of calls) or equals or is less than (in the case of puts), the cap price for the option. The cap price, which is assigned by the Exchange when the capped option is listed, is the value of the index underlying a series of capped options at which the options in the series will be automatically exercised. Accordingly, the cap price is above the exercise price (*i.e.*, strike price) for calls and below the exercise price (*i.e.*, strike price) for puts. The difference between the strike price and the cap price is equal to the "cap interval." Specifically, the Amex defines the cap interval as the "value specified by the Exchange which, when added to the 'exercise price' for such series (in the case of a series of calls) or subtracted from the 'exercise price' for such series (in the case of a series of puts), results in the cap price for such series." [5] For example, a capped call option on the Major Market Index ("XMI") with a cap price of 390 and a cap interval of 20 would have a strike price of 370. While capped options will be subject to automatic exercise due to movements in the underlying index, they also will be European-style. Accordingly, other than due to automatic exercise, they can only be exercised by the holder on the day before expiration. In other words, if the

[1] 17 CFR 240.19b-4 (1990).

[2] On November 13, 1991, the Amex submitted a letter to the Commission stating that its proposal was limited to capped options on domestic broad-based stock indexes. *See* letter from Ellen T. Kander, Special Counsel, Options Division, Amex, to Thomas Gira, Branch Chief, Options Regulation, SEC, dated November 13, 1991.

[3] On October 23, 1991, the Amex submitted Amendment No. 1 to its filing. In this filing the Amex: (1) Clarified its definitions of American-Style Index Option, European-Style Index Option, Capped-Style Option, Capped-Style Index Option, Cap Interval and Cap Price; and (2) specified the margin requirements for capped options. On October 31, 1991, the Amex submitted a second amendment to its filing. This amendment conformed the deposit requirements regarding short capped options positions in a cash account to the language contained in Regulation T under the Act. The amendment also eliminated the spread margin treatment for positions consisting of long capped options and short non-capped options because normal spread relationships do not hold for such positions. For a description of these amendments, see section II *infra*.

[4] The exercise settlement value for capped options is the value of the index, determined for each trading day as of the close of trading, unless another time of day is specified by the Amex.

[5] See proposed Exchange Rule 900C(b)(24).

underlying index fails to reach the cap price during the life of the capped option, the option becomes European-style on the last business day before expiration.

Upon automatic exercise of a capped option, the holder receives a cash settlement amount equal to the cap interval times the multiplier for the option. Under no circumstances, however, does the holder receive a cash settlement amount greater than the cap interval times the index multiplier. Therefore, the cap price establishes a maximum pre-defined value for the capped options. For example, if the index multiplier is 100, the index closes at 382 and the investor holds a capped call option with a strike price of 360 and a cap interval of 20, then the holder would receive a cash settlement amount equal to $2,000 (20 times $100). If the capped option is exercised by the holder on the last business day before expiration, the holder receives a cash settlement amount equal to the difference between the exercise settlement amount on the day of exercise and the exercise price, multiplied by the index multiplier (but not greater than the cap interval). For example, if the index is at 370 on an Expiration Friday and an investor holds a capped XMI call option with a strike price of 360 and a cap interval of 20, then the investor would receive $1,000 (10 times $100) upon exercise of the option.

Due to their characteristics, long capped call options closely resemble vertical bull spreads traded as a single security (*i.e.*, the combination of one long and one short call position with the same expiration but where the strike price of the short call is higher than the strike price of the long call). Conversely, long capped put options closely resemble vertical bear spreads traded as a single security (*i.e.*, the combination of one long put and one short put position with the same expiration, but where the strike price of the short put is lower than the strike price of the long put).

The Amex has proposed the following rule changes to accommodate the trading of capped options. First, the Amex has amended its Rule 900C, which sets forth definitions with respect to stock index options, to define a capped-style option and capped-style stock index option, as well as cap interval and cap price. The Exchange also has clarified its definitions of American-style and European-style options and stock index options.

Second, the Amex proposes to amend its Rule 905C entitled "Exercise Limits" to provide that capped options will not be included when calculating exercise limits for index options. This amendment is designed to avoid instances where an investor would violate exercise limits by virtue of the automatic exercise of his capped options, an event the investor has no control over. The Amex also proposes to amend Exchange Rule 904C entitled "Position Limits" to provide that positions in capped options and American- and European-style options will be aggregated for position limit purposes.

Third, the Amex proposes to add Commentary .02 to Exchange Rule 903C entitled "Series of Stock Index Options." Commentary .02 specifies an initial cap interval of 20 points, which may be modified by the Exchange. In addition, Commentary .02 provides that: (1) One at-the-money call and put series will be listed with an expiration of up to four months in the future and up to one year in the future for long-term capped options; (2) additional near-the-money series will be listed every two months having four months until expiration; and (3) series may be added to existing expiration months if there has been a significant move in the underlying index value.

Fourth, the Exchange proposes to amend Exchange Rule 462 to provide for the following margin treatment for short positions in capped options. For cash accounts, the investor must deposit an amount equal to the cap interval times the index multiplier in cash or cash equivalents as defined in section 220.8(c) of Regulation T under the Act. For margin accounts, the margin requirement is 100% of the option premium plus 15% of the underlying index value times the index multiplier. The maximum margin required, however, can never exceed the value of the cap interval times the index multiplier. Consistent with the margin treatment for other stock index options, the proposal also provides for a decrease in the amount of margin required up to a certain point, if the option is out-of-the-money. Lastly, the proposal provides that spread margining is unavailable for positions consisting of long capped options and short non-capped options.

III. Commission Findings

The Amex has requested that the proposed rule change be given accelerated effectiveness pursuant to section 19(b)(2) of the Act because it is based on a Chicago Board Options Exchange, Inc. ("CBOE") proposal approved by the Commission.[6]

The Commission finds that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to a national securities exchange, and, in particular, the requirements of section 6(b)(5),[7] and, therefore, approves the Exchange's proposal on an accelerated basis.[8] Specifically, the Commission believes that the capped options are an innovative financial product that will provide investors with additional choice and flexibility in their use of derivatives. In addition, capped options offer both holders and writers of options a means to participate in the options markets at a predetermined maximum gain or loss. Under the terms of the capped options, the options writer's (holder's) maximum loss (gain) is established at the time of the investment by the option's cap interval. Once the option's cap price (the strike price plus the cap interval for a call or the strike price minus the cap interval for a put) has been reached, the option is exercised automatically. The option writer's maximum potential liability is the amount of the cap interval, and, conversely, the option holder's maximum gain is the amount of the cap interval. Thus, capped options permit investors to participate in the options market at a known and limited cost. By limiting some of the risks associated with spread positions in American-style and European-style options, capped options likely will make the options markets more attractive to a broader range of investors. In addition, the Commission notes that capped options, which are the equivalent of vertical bull and bear spreads traded as a single security, likely will benefit investors by providing them with a more efficient and cost effective method of executing spread transactions.

The Commission also finds that the specific rules proposed by the Amex to accommodate capped options are

[6] See Securities Exchange Act Release No. 29865 (October 28, 1991) (order approving File No. SR-CBOE-91-24).

[7] 15 U.S.C. 78f(b)(5) (1934).

[8] In conjunction with the Amex's approval order for capped options, the Commission also approved for distribution a supplement to the Options Disclosure Document entitled Characteristics and Risks of Standardized Options that describes the characteristics and risks of trading in capped options. This supplement must be provided to investors in capped options before their accounts are approved for transactions in capped options or their orders for capped options are accepted. See Securities Exchange Act Release No. 29850 (October 23, 1991).

consistent with the Act.[9] Specifically, the Commission believes it is reasonable for the Exchange to set a cap interval of 20 in that the cap price is placed sufficiently far from the exercise price so that the capped options will not be exercised automatically on a frequent basis.[10]

In addition, the Commission believes that the Exchange's proposal to bring up new at-the-money series of capped options every other month and after significant market moves is consistent with the Act because it will not result in a proliferation of options series. The Commission also finds that it is consistent with the Act to exclude capped options from exercise limit calculations because holders of capped options have no control over when their positions will be exercised, except on the last business day before expiration of the options. Moreover, the Commission notes that capped options are not excluded from position limit calculations, in that capped options are aggregated with non-capped index options for position limit purposes.

Finally, the Commission believes that the proposed margin treatment for capped options in cash and margin accounts is consistent with the Act. Specifically, the Commission believes that it is consistent with the Act to permit short capped options positions in a cash account so long as the maximum exposure (the difference between the exercise price and the cap price times the index multiplier) is deposited.[11] This position is the equivalent of a completely covered position, because the maximum risk of loss is already on deposit. In addition, the Commission believes the proposed margin requirements for capped options positions maintained in margin accounts are consistent with the Act because they are virtually identical to the margin requirements for short stock index options positions in non-capped stock index options held in margin accounts, except for the fact that a limit equal to the maximum exposure to the option writer is placed on the margin requirement. It is reasonable to limit the margin in this fashion because, if the limit is invoked, the margin covers 100% of the exposure to the writer and no additional margin calls need be made.

Lastly, the Commission believes that the automatic exercise feature of capped options necessitates that when the Amex lists capped options on a specific index, the Amex ensure that the exercise settlement value for the index is accurate at all times. An erroneous exercise settlement value could conceivably result in the unwarranted automatic exercise of capped options and the irreversible elimination of an options position. Accordingly, in this regard, the Commission notes that the Amex has developed procedures to identify and correct any inaccurate exercise settlement values before they are transmitted to the Options Clearing Corporation for clearance and settlement purposes.[12]

The Commission finds good cause for approving the Amex's proposal to list capped options prior to the thirtieth day after the date of publication of notice of filing thereof in the **Federal Register** because the Exchange's proposal is substantially the same as the CBOE's proposal to list capped options, which was subject to the full notice and comment period. As noted above, the Commission received no adverse comments on the Amex's proposal during the 21-day comment period. Likewise, the Commission received no adverse comments on the CBOE's proposal and the Commission does not find any different regulatory issues arising from the Amex's proposal. Thus, the Commission believes it is appropriate to approve the proposed rule change on an accelerated basis in order to facilitate competition between the exchanges for product services, which, in turn, should benefit public investors. The Commission believes, therefore, that good cause exists for approving the proposed rule change on an accelerated basis.

IV. Solicitation of Comments

With respect to the amendments to the Amex's proposal, interested persons are invited to submit written data, views and arguments concerning the foregoing. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549. Copies of the submission, all subsequent amendments, all written statements with the respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying at the Commission's Public Reference Section, 450 Fifth Street, NW., Washington, DC. Copies of such filing will also be available for inspection and copying at the principal office of the above-mentioned self-regulatory organization. All submissions should refer to the file number in the caption above and should be submitted by December 11, 1991.

It is therefore ordered, pursuant to section 19(b)(2) of the Act,[13] that the proposed rule change (SR–Amex–91–24) is approved.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[14]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 91–27837 Filed 11–19–91;8:45 am]

BILLING CODE 8010–01–M

[Release No. 34–29935; File No. SR–CBOE–91–35]

Self-Regulatory Organizations; Filing and Order Granting Accelerated Approval of Proposed Rule Change by the Chicago Board Options Exchange, Inc., Relating to the Extension of the Modified Trading System Pilot Program

November 13, 1991.

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"), 15 U.S.C. 78s(b)(1), notice is hereby given that on October 7, 1991, the Chicago Board Options Exchange, Inc. ("CBOE" or "Exchange") filed with the Securities and Exchange Commission ("Commission") the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the CBOE. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

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[9] The Commission notes that Amex Rule 900C, as amended, defines capped-style options and capped-style stock index options. Because the current Exchange proposal is limited to capped options on domestic broad-based stock indexes, should the Amex decide to list capped options on a foreign broad-based stock index, a narrow-based stock index, or an individual security, then the Commission believes an Exchange rule filing made pursuant to section 19(b) of the Act would be necessary.

[10] The Commission notes that a rule filing pursuant to section 19(b) of the Act would be necessary if the Amex decided to change the present cap interval.

[11] The Commission notes that, in connection with its proposal, the CBOE received a letter from the staff of the Board of Governors of the Federal Reserve Board ("FRB") that concurs with this treatment of capped options. See letter from Laura Homer, Securities Credit Officer, Division of Banking Supervision and Regulation, FRB, to Diane M. Malley, Supervisor, Department of Financial Compliance, CBOE, dated October 11, 1991.

[12] See letter from Ellen T. Kander, Special Counsel, Options Division, Amex, to Thomas Gira, Branch Chief, Options Regulation, SEC, dated October 29, 1991.

[13] 15 U.S.C. 78s(b) (2) (1988).

[14] 17 CFR 200.30–3(a) (12) (1990).

I. Self-Regulatory Organization's Statement of the Term of Substance of the Proposed Rule Change

The CBOE hereby requests an extension of CBOE Rule 8.80, which establishes a Modified Trading System ("MTS") pilot program, for an additional two years, until September 22, 1993.[1]

The text of the proposed rules change is available at the Office of the Secretary, CBOE and at the Commission.

II. Self-Regulatory Organization's Statement of the Purpose of and Statutory Basis for, the Proposed Rule Change

In it filing with the Commission the CBOE included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in item IV below. The CBOE has prepared summaries, set for in sections (A), (B), and (C) below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

(1) Purpose

The CBOE submitted this proposal to obtain authorization from the Commission to extend its MTS pilot program until September 22, 1993. The MTS pilot program initially was approved by the Commission in September 1987.[2] The Exchange's MTS pilot program permits the CBOE to assign a Designated Primary Market Maker ("DPM") for options classes. Under the existing pilot program, members appointed as DPMs assume responsibilities and acquire rights in their appointed options classes beyond the obligations and rights of other market makers that trade in the same options class. Specifically, in addition to the normal obligations of a market maker, the DPM assumes additional obligations designed to strengthen the market making in the designated options class such as (1) assuring that disseminated market quotations are accurate; (2) being present at the trading post throughout every business day; (3) resolving trading disputes, subject to Floor Official review; and (4) participating at all times in any automated execution system which may be open in appointed options classes.

The Exchange represents that its MTS pilot program has operated successfully at the CBOE since its inception. Furthermore, the Exchange represents that it intends to submit a proposal for permanent approval of the MTS pilot in the near future.

In addition to requesting that the pilot program be extended, the CBOE proposes some clarifying, non-substantive amendments to Rule 8.80. Specifically, the CBOE proposes that the name of the Exchange committee responsible for administering the MTS program be designated as the "MTS Appointments Committee" or "MTS Committee" rather than the "DPM Appointment Committee" as originally set forth in the Rule. The CBOE does not propose any changes to the composition, functions or procedures of this Committee.

(2) Basis

The CBOE believes that the proposed rule change is consistent with section 6(b) of the Act, in general, and section 6(b)(5) in particular, in that it is designed to promote just and equitable principles of trade, and to protect investors and the public interest.

B. Self-Regulatory Organization's Statement on Burden on Competition

The CBOE does not believe that the proposed rule change will impose any inappropriate burden on competition.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants or Others

No written comments were solicited or received with respect to the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The Exchange has requested that the proposed rule change be given accelerated effectiveness pursuant to section 19(b)(2) of the Act.

The Commission finds that the proposed rule change to extend the MTS pilot program for an additional two years is consistent with the requirements of the Act and the rules and regulations thereunder applicable to a national securities exchange, and, in particular, the requirements of section 6(b)(5) thereunder.[3] Specifically, the Commission concludes that the CBOE proposal to extend the pilot will contribute to the protection of investors and to the Exchange's ability to provide fair and orderly markets in new options products for the reasons articulated in the order originally approving MTS.[4] The Commission has received no indication that the pilot is operating other than as originally intended. The Commission notes, however that before the pilot program can be approved on a permanent basis, or extended again on a pilot basis, the CBOE must provide the Commission with a report on the operation of the pilot program no later than March 22, 1993.[5]

Specifically, before receiving permanent approval or a further extension of the pilot program, the CBOE must submit a pilot program report that addresses: (1) Whether there have been any complaints regarding the operation of the pilot; (2) whether the CBOE has taken any disciplinary or performance action against any member due to the operation of the pilot; (3) the number of DPM's involved in the pilot; (4) the extent to which the pilot has been used on the CBOE; (5) whether the CBOE has terminated or replaced a DPM and the reasons therefore; (6) the impact of the pilot on the bid/ask spreads, depth and continuity in CBOE options markets; and (7) whether the CBOE has taken any action or there have been any complaints against DPMs or associated broker-dealers relating to improper activity as a result of DPM affiliations with upstairs firms.

The Commission finds good cause for approving the proposed rule change prior to the thirtieth day after the date of publication of notice of filing thereof in the **Federal Register** in order to permit the uninterrupted continuation of the MTS pilot. In addition, the CBOE has indicated that there have been no problems associated with the operation of the MTS and the Commission has not received any adverse comments concerning the Exchange's pilot program. Accordingly, the Commission believes good cause exists to approve the extension of the pilot program on an accelerated basis.

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[1] The CBOE originally requested that the Commission extend the pilot program until such time as the Commission approved the Exchange's MTS on a permanent basis. On October 21, 1991, the CBOE submitted Amendment No. 1 to its proposal to request an extension of the pilot program for a specified period of time, until September 22, 1993.

[2] See Securities Exchange Act Release No. 24934 (September 22, 1987), 52 FR 36122.

[3] 15 U.S.C. 78f(b)(5) (1982).

[4] See note 2, supra.

[5] The Commission similarly has required that the Pacific stock Exchange, Inc. ("PSE") file a pilot report on the operation of its Lead Market Maker ("LMM") pilot program before the Commission will consider permanent approval, or a further extension of the PSE's LMM pilot program. See Securities Exchange Act Release No. 29475 (July 23, 1991), 56 FR 36183.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Section, 450 Fifth Street, NW., Washington, DC 20549. Copies of such filing will also be available for inspection and copying at the principal office of the CBOE. All submissions should refer to the file number in the caption above and should be submitted by December 11, 1991.

It is therefore ordered, pursuant to section 19(b)(2) of the Act,[6] that the proposed rule change (SR–CBOE–91–35) is approved, and accordingly, that the CBOE's MTS pilot program is extended until September 22, 1993.

For the Commission, by the Division of Market Regulation, pursuant to the delegated authority.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 91–27838 Filed 11–19–91; 8:45 am]

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[Release No. 34–29933; File No. SR–NASD–91–54]

Self-Regulatory Organizations; Filing of Proposed Rule Change by National Association of Securities Dealers, Inc. Relating to the Deposit of Adjournment Fees in Arbitration Proceedings

November 13, 1991.

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"), 15 U.S.C. 78s(b)(1), notice is hereby given that on November 1, 1991, the National Association of Securities Dealers, Inc. ("NASD" or "Association") filed with the Securities and Exchange Commission ("SEC" or "Commission") the proposed rule change as described in items I, II, and III below, which Items have been prepared by the NASD. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The NASD is proposing to amend section 30 of the NASD Code of Arbitration Procedure ("Code") to require the deposit of adjournment fees with any request for adjournment. Proposed new language is in italics; proposed deletions are in brackets.

Code of Arbitration Procedure

* * * * *

Adjournments

Sec. 30 (a) No change.

(b) *Unless waived by the Director of Arbitration upon a showing of financial need,* [A] *a* party requesting an adjournment after arbitrators have been appointed shall [, if an adjournment is granted,] deposit *with the request for an adjournment,* a fee [,] equal to the initial deposit of hearing session fees for the first adjournment and twice the initial deposit of hearing session fees, not to exceed $1,000, for a second or subsequent adjournment requested by the party. *If the adjournment is not granted, the deposit shall be refunded. If the adjournment is granted,* [T]*t*he arbitrator(s) [may waive the deposit of this fee or in their award] may direct the return of the adjournment fee.

(c) No change.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the NASD included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The NASD has prepared summaries, set forth in section (A), (B), and (C) below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

The NASD is proposing to amend section 30 of the Code to require the deposit of adjournment fees with any request for adjournment.

Section 30 permits the arbitrators to adjourn any arbitration hearing on their own initiative or upon the request of any party to the arbitration. Section 30 also requires the party requesting adjournment to deposit a fee with the NASD equal to the initial deposit of hearing session fees for the first adjournment and twice the initial deposit of hearing session fees, not to exceed $1,000, for a second or subsequent adjournment requested by that party. The hearing session fees are set forth in sections 43 and 44 of the Code.

Under the current provisions of section 30 the party requesting adjournment is not required to deposit the applicable fee until the request for an adjournment is granted. The NASD has found, however, that once an adjournment is granted there is little or no pressure to pay the fee. In many cases, after an adjournment is granted, the requesting party does not voluntarily pay the fee and the staff is then forced to pursue collection of the fee. The proposed amendment to section 30 would alleviate the collection burden on the NASD by requiring the adjournment fee be paid at the time a request is made.

The NASD is aware that the proposed rule change may impose a hardship on some arbitration parties. Therefore, the NASD is also proposing to amend section 30 to permit the Director of Arbitration to waive the deposit fee upon a showing of financial hardship.

Finally, the NASD intends to apply the proposed rule change to all requests for adjournment made after the date of the effectiveness of the rule change. Because the rule change does not impose any additional or different fees on the parties to an arbitration proceeding, the NASD does not believe that application of the rule change to pending actions will impose any undue burden. The rule change merely changes the timing of the collection of a fee which is already imposed under the Code.

The NASD believes that the proposed rule change is consistent with the provisions of section 15A(b)(6) of the Act in that the NASD's arbitration program provides a means for securities customers to seek redress for financial harm resulting from the unjust, inequitable or fraudulent practices of member firms and their associated persons. The proposed amendment enhances the NASD's ability to recover the costs associated with maintaining its arbitration program.

B. Self-Regulatory Organization's Statement on Burden on Competition

The NASD does not believe that the proposed rule change will result in any burden on competition that is not

[6] 15 U.S.C. 78s(b)(2) (1982).

necessary or appropriate in furtherance of the purposes of the Act, as amended.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

Written comments were neither solicited nor received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within 35 days of the date of publication of this notice in the **Federal Register** or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the self-regulatory organization consents, the Commission will:

A. By order approve such proposed rule change, or

B. Institute proceedings to determine whether the proposed rule change should be disapproved.

The NASD will make the proposed rule change effective within 45 days of Commission approval.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Room. Copies of such filing will also be available for inspection and copying at the principal office of the NASD. All submissions should refer to the file number in the caption above and should be submitted by December 11, 1991.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority, 17 CFR 200.30-3(a)(12).

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 91-27839 Filed 11-19-91; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 34-29930; File No. SR-PSE-91-30

Self-Regulatory Organizations; Filing and Order Granting Accelerated Approval of Proposed Rule Change by the Pacific Stock Exchange, Inc., Relating to the Extension of the Options Trading Crowd Performance Evaluation Program

November 12, 1991.

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"), 15 U.S.C. 78s(b)(1), notice is hereby given that on October 17, 1991, the Pacific Stock Exchange, Inc. ("PSE" or "Exchange") filed with the Securities and Exchange Commission ("SEC" or "Commission") the proposed rule change as described in items I, II and III below, which Items have been prepared by the self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The PSE seeks an extension until October 1, 1992, of its Options Trading Crowd Performance Evaluation pilot program.[1] Under the pilot program, the Options Listings Committee ("Committee") conducts periodic evaluations of options trading crowds to determine whether they have fulfilled performance standards relating to quality of markets, competition among market makers, observance of ethical standards, and administrative factors. In making its evaluations, the Committee may consider any relevant information, including the results of a trading crowd evaluation questionnaire, trading data, reports filed with the Exchange (*i.e.*, Order Book Official Unusual Activity Reports), and the regulatory history of the members in the crowd. As part of the program, the Committee distributes trading crowd evaluation questionnaires to every member firm on the floor that has at least one floor broker in a trading crowd and that receives order flow from outside the floor. Floor brokers approved by the Committee complete the questionnaires. Trading crowds rated in the bottom 10% of the aggregate results of overall evaluation scores are presumed to have failed to meet minimum performance standards. The Committee may call an informal meeting or conduct a formal hearing with a trading crowd for failure to meet minimum performance standards. At the formal hearing, rights of confrontation and rights to counsel apply. Based on the information adduced at the formal hearing, the Committee has the authority to take action against a trading crowd or individual market makers in the crowd, such as a restriction on the allocation of new options classes or a reallocation of existing options classes. The text of the proposed rule change is available at the Compliance Department of the PSE and at the Commission.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in item IV below. The self-regulatory organization has prepared summaries, set forth in sections (A), (B), and (C) below, of the most significant aspects of such statements.

(A) Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

The PSE implemented its Options Trading Crowd Performance Evaluation pilot program in April 1988. The PSE represents that the pilot program's evaluations have enhanced the quality of the markets provided by PSE market makers. However, the Exchange believes that additional time is warranted to fully evaluate the merits of the program due to several factors, and, accordingly, requests a one year extension of the pilot program through October 1, 1992.

The PSE notes, first, that as a result of the multiple trading environment, the trading crowd evaluations play a vital role in the PSE's determinations to allocate the reallocate options issues. As such, the trading crowd performance evaluations serve to ensure that the investing public is being afforded competitive markets. Second, because of the changing trading environment (*i.e.*, the recent lowering of options listing standards), the criteria of the evaluations are being adjusted to reflect as accurately as possible the true market place. The PSE believes the extension of the current pilot is necessary while the adjustments are

[1] On April 22, 1988, the Commission approved the PSE's Options Trading Crowd Performance Evaluation program on a two-year pilot basis. See Securities Exchange Act Release No. 25611 (April 22, 1988), 53 FR 15325 (order approving SR-PSE-87-28).

being developed. In addition, the PSE notes that the pilot program contributes to the maintenance of good options markets at the PSE, thereby aiding the Exchange in maintaining its competitiveness.

The PSE believes that the proposed rule change is consistent with section 6(b)(5) of the Act in that it seeks to improve the Exchange's markets, to promote just and equitable principles of trade and to afford protection to the investing public.

(B) Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change imposes a burden on competition.

(C) Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received from Members, Participants or Others

Written comments on the proposed rule change were neither solicited nor received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The PSE has requested that the proposed rule change be given accelerated effectiveness pursuant to section 19(b)(2) of the Act.

The Commission finds that the proposed rule change to extend the pilot program is consistent with the requirements of the Act and the rules and regualtions thereunder applicable to a national securities exchange, and, in particular, the requirements of section 6 thereunder.[2] Specifically, the Commission finds that the extension of the pilot is consistent with the Act based on the PSE's representations that the trading crowd evaluations play a vital role in the allocation and reallocation of options issues, that the evaluations help the Exchange provide a competitive market, and that, in light of the changing trading environment, the Exchange is adjusting the evaluation criteria in order to reflect the market as accurately as possible.

Consistent with its original approval of the pilot program, the Commission also believes that the program should further the PSE's ability to ensure liquid and continuous markets for options traded on its floor by permitting it to enforce more effectively the obligations imposed on the PSE's market makers. In particular, responses to the trading crowd evaluation questionnaire should enable the PSE to determine whether market makers are making continuous, two-sided markets in all option series for each option class located at a trading station and whether deep and liquid markets are provided as a result of competition among market makers. The Commission further believes that the proposal should protect investors and the public interest by setting minimum standards of market maker performance and that the implementation of more stringent, formalized market maker standards will enhance the integrity of the PSE's options markets and contribute to investor confidence.

Before the Commission approves the pilot program on a permanent basis, however, the PSE must provide the Commission with a report assessing the effectiveness of the pilot program, any problems associated with its implementation, and any proposed modification to the program and the reasons for them. The Commission expects that this report will describe: (1) Whether the pilot program has improved the performance of the PSE's market makers, as determined by the trading crowd evaluation questionnaires and other relevant data; (2) the number of market makers and trading crowds that fall below acceptable performance levels; (3) the number of informal meetings and formal hearings commenced pursuant to the program; (4) the results of any remedial actions effected pursuant to the program; (5) a list of options reallocated due to substandard performance and the market makers involved; and (6) the accuracy and usefulness of the questionnaire as a means of evaluating trading crowd performance.

The Commission finds good cause for approving the proposed rule change prior to the thirtieth day after the date of publication of notice of filing thereof in the **Federal Register** in order to permit the uninterrupted continuation of the pilot program. In addition, because there have been no adverse comments concerning the pilot program since its implementation and because of the importance of maintaining the quality and efficiency of the PSE's options markets, the Commission believes it is consistent with the Act to approve the extension of the pilot program on an accelerated basis.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying at the Commission's Public Reference Section, 450 Fifth Street, NW., Washington, DC. Copies of such filing will also be available for inspection and copying at the principal office of the above-mentioned self-regulatory organization. All submissions should refer to the file number in the caption above and should be submitted by December 11, 1991.

It is therefore ordered, pursuant to section 19(b)(2) of the Act,[3] that the proposed rule change (SR-PSE-91-30) to extend the Options Trading Crowd Evaluation pilot program until October 1, 1992, is approved.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 91-27840 Filed 11-19-91; 8:45 am]

BILLING CODE 8010-01-M

[File No. 1-9185]

Issuer Delisting; Application to Withdraw From Listing and Registration; (Choice Drug Systems, Inc., Common Shares, $.01 Par Value)

November 14, 1991.

Choice Drug Systems, Inc. ("Company") has filed an application with the Securities and Exchange Commission, pursuant to section 12(d) of the Securities Exchange Act of 1934 ("Act") and Rule 12d2-2(d) promulgated thereunder, to withdraw the above specified security from listing and registration on the Boston Stock, Exchange, Inc. ("BSE" or "Exchange").

The reasons alleged in the application for withdrawing this security from listing and registration include the following:

In making the decision to withdraw its Shares from listing on the BSE, the Company considered the direct and indirect costs and expenses attendant on maintaining the dual listing of its Common Shares on the NASDAQ/NMS and the BSE. The Company does not see any particular advantage in the dual trading of its Common Shares and believes that dual listing would

[2] 15 U.S.C. 78f(b)(5) (1982).

[3] 15 U.S.C. 78s(b)(2) (1982).

fragment the market for its Common Shares. Additionally, the Company believes that the NASDAQ/NMS provides the Company's stockholders with a market system that readily accommodates the trading volume in the Company's Common Shares.

Any interested person may, on or before December 6, 1991 submit by letter to the Secretary of the Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549, facts bearing upon whether the application has been made in accordance with the rules of the exchanges and what terms, if any, should be imposed by the Commission for the protection of investors. The Commission, based on the information submitted to it, will issue an order granting the application after the date mentioned above, unless the Commission determines to order a hearing on the matter.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

Jonathan G. Katz,

Secretary.

[FR Doc. 91-27836 Filed 11-19-91; 8:45 am]

BILLING CODE 8010-01-M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Noise Exposure Map Notice; Receipt of Noise Compatibility Program and Request for Review, Toledo Express Airport, Toledo, OH

AGENCY: Federal Aviation Administration, DOT.

ACTION: Notice.

SUMMARY: The Federal Aviation Administration (FAA) announces its determination that the noise exposure maps submitted by Toledo-Lucas County Port Authority for Toledo Express Airport under the provisions of title I of the Aviation Safety and Noise Abatement Act of 1979 (Pub. L. 96-193) and 14 CFR part 150 are in compliance with applicable requirements. The FAA also announces that it is reviewing a proposed noise compatibility program that was submitted for Toledo Express Airport under part 150 in conjunction with the noise exposure map, and that this program will be approved or disapproved on or before May 6, 1992.

EFFECTIVE DATE: The effective date of the FAA's determination on the noise exposure maps and of the start of its review of the associated noise compatibility program is November 8, 1991. The public comment period ends December 23, 1991.

FOR FURTHER INFORMATION CONTACT: Robert H. Allen, Federal Aviation Administration, Detroit Airports District Office, DET-ADO-670.1, East Willow Run Airport, 8820 Beck Road, Belleville, Michigan 48111, (313) 487-7296.

SUPPLEMENTARY INFORMATION: This notice announces that the FAA finds that the noise exposure maps submitted for Toledo Express Airport are in compliance with applicable requirements of part 150, effective November 8, 1991. Further, FAA is reviewing a proposed noise compatibility program for that airport which will be approved or disapproved on or before May 6, 1992. This notice also announces the availability of this program for public review and comment.

Under section 103 of title I of the Aviation Safety and Noise Abatement Act of 1979 (hereinafter referred to as "the Act"), an airport operator may submit to the FAA noise exposure maps which meet applicable regulations and which depict noncompatible land uses as of the date of submission of such maps, a description of projected aircraft operations, and the ways in which such operations will affect such maps. The Act requires such maps to be developed in consultation with interested and affected parties in the local community, government agencies, and persons using the airport.

An airport operator who has submitted noise exposure maps that are found by FAA to be in compliance with the requirements of Federal Aviation Regulations (FAR) part 150, promulgated pursuant to title I of the Act, may submit a noise compatibility program for FAA approval which sets forth the measures the operator has taken or proposes for the reduction of existing noncompatible uses and for the prevention of the introduction of additional noncompatible uses.

Toledo-Lucas County Port Authority submitted to the FAA on August 23, 1991 noise exposure maps, descriptions and other documentation which were produced during the Airport Noise Compatibility Planning (part 150) Study at Toledo Express Airport from November 1989 to August 1991. It was requested that the FAA review this material as the noise exposure maps, as described in section 103(a)(1) of the Act, and that the noise mitigation measures, to be implemented jointly by the airport and surrounding communities, be approved as a noise compatibility program under section 104(b) of the Act.

The FAA has completed its review of the noise exposure maps and related descriptions submitted by Toledo-Lucas County Port Authority. The specific maps under consideration are 1990 Noise Exposure Maps (existing conditions) and 1996 Noise Exposure Map (abated conditions). They are included along with supporting documentation found in the Part One Noise Exposure Map Documentation of the Part 150 Study in the submission. The FAA has determined that these maps for Toledo Express Airport are in compliance with applicable requirements. This determination is effective on November 8, 1991. FAA's determination on an airport operator's noise exposure maps is limited to a finding that the maps were developed in accordance with the procedures contained in appendix A of FAR part 150. Such determination does not constitute approval of the applicant's data, information or plans, or a commitment to approve a noise compatibility program or to fund implementation of that program.

If questions arise concerning the precise relationship of specific properties to noise exposure contours depicted on a noise exposure map submitted under section 103 of the Act, it should be noted that the FAA is not involved in any way in determining the relative locations of specific properties with regard to the depicted noise contours, or in interpreting the noise exposure maps to resolve questions concerning, for example, which properties should be covered by the provisions of section 107 of the Act. These functions are inseparable from the ultimate land use control and planning responsibilities of local government. These local responsibilities are not changed in any way under part 150 or through FAA's review of noise exposure maps. Therefore, the responsibility for the detailed overlaying of noise exposure contours onto the map depicting properties on the surface rests exclusively with the airport operator which submitted those maps, or with those public agencies and planning agencies with which consultation is required under section 103 of the Act. The FAA has relied on the certification by the airport operator, under § 150.21 of FAR part 150, that the statutorily required consultation has been accomplished.

The FAA has formally received the noise compatibility program for Toledo Express Airport, also effective on November 8, 1991. Preliminary review of the submitted material indicates that it conforms to the requirements for the submittal of noise compatibility programs, but that further review will be necessary prior to approval or disapproval of the program. The formal

review period, limited by law to a maximum of 180 days, will be completed on or before May 6, 1992.

The FAA's detailed evaluation will be conducted under the provisions of 14 CFR part 150, § 150.33. The primary considerations in the evaluation process are whether the proposed measures may reduce the level of aviation safety, create an undue burden on interstate or foreign commerce, or be reasonably consistent with obtaining the goal of reducing existing noncompatible land uses and preventing the introduction of additional noncompatible land uses.

Interested persons are invited to comment on the proposed program with specific reference to these factors. All comments, other than those properly addressed to local land use authorities, will be considered by the FAA to the extent practicable. Copies of the noise exposure maps, the FAA's evaluation of the maps, and the proposed noise compatibility program are available for examination at the following locations:

Federal Aviation Administration, Great Lakes Region, 2300 East Devon Avenue, room 269, Des Plaines, Illinois 60018.

Federal Aviation Administration, Detroit Airports District Office, East Willow Run Airport, 8820 Beck Road, Belleville, Michigan 48111.

Toledo-Lucas County Port Authority, One Maritime Plaza, Toledo, Ohio 43604.

Toledo Express Airport, 11013 Airport Highway, Swanton, Ohio 43558.

Questions may be directed to the individual named above under the heading, **FOR FURTHER INFORMATION CONTACT.**

Issued in Belleville, Michigan, November 8, 1991.

Peter A. Serini,

Manager, Detroit Airports District Office, Great Lakes Region.

[FR Doc. 91-27875 Filed 11-19-91; 8:45 am]

BILLING CODE 4910-13-M

FAA Approval of Noise Compatibility Program, San Antonio International Airport, San Antonio, TX

AGENCY: Federal Aviation Administration.

ACTION: Notice.

SUMMARY: The Federal Aviation Administration (FAA) announces its findings on the noise compatibility program submitted by the city of San Antonio, Texas, under the provisions of title I of the Aviation Safety and Noise Abatement Act of 1979 (Pub. L. 96-193) and 14 CFR part 150. These findings are made in recognition of the description of Federal and nonfederal responsibilities in Senate Report No. 96-52 (1980). On April 12, 1991, the FAA determined that the noise exposure maps submitted by the city of San Antonio, Texas, under part 150 were in compliance with applicable requirements. On October 8, 1991, the Administrator approved the San Antonio International Airport noise compatibility program. All of the recommendations of the program were approved. No program elements relating to new or revised flight procedures for noise abatement were proposed by the airport operator.

EFFECTIVE DATE: The effective date of the FAA's approval of the San Antonio International Airport noise compatibility program is October 8, 1991.

FOR FURTHER INFORMATION CONTACT: Donald C. Harris, Texas Airport Development Office, ASW-651, Federal Aviation Administration, Fort Worth, Texas, 76193-0651, area code 817/624-5612 (FTS 734-5612). Documents reflecting this FAA action may be reviewed at this same location.

SUPPLEMENTARY INFORMATION: This notice announces that the FAA has given its overall approval to the noise compatibility program for San Antonio International Airport, effective October 8, 1991.

Under section 104(a) of the Aviation Safety and Noise Abatement Act of 1979 (hereinafter referred to as "the Act"), an airport operator who has previously submitted a noise exposure map may submit to the FAA a noise compatibility program which sets forth the measures taken or proposed by the airport operator for the reduction of existing noncompatible land uses and prevention of additional noncompatible land uses within the area covered by the noise exposure maps. The Act requires such programs to be developed in consultation with interested and affected parties including local communities, government agencies, airport users, and FAA personnel.

Each airport noise compatibility program developed in accordance with Federal Aviation Regulations (FAR) part 150 is a local program, not a Federal program. The FAA does not substitute its judgment for that of the airport proprietor with respect to which measures should be recommended for action. The FAA's approval or disapproval of FAR part 150 program recommendations is measured according to the standards expressed in part 150 and the Act and is limited to the following determinations:

a. The noise compatibility program was developed in accordance with the provisions and procedures of FAR part 150;

b. Program measures are reasonably consistent with achieving the goals of reducing existing noncompatible land uses around the airport and preventing the introduction of additional noncompatible land uses;

c. Program measures would not create an undue burden on interstate or foreign commerce, unjustly discriminate against types or classes of aeronautical uses, violate the terms of airport grant agreements, or intrude into areas preempted by the Federal Government; and

d. Program measures relating to the use of flight procedures can be implemented within the period covered by the program without derogating safety, adversely affecting the efficient use and management of the navigable airspace and air traffic control systems, or adversely affecting other powers and responsibilities of the Administrator prescribed by law.

Specific limitations with respect to FAA's approval of an airport noise compatibility program are delineated in FAR part 150, § 150.5. Approval is not a determination concerning the acceptability of land uses under Federal, State, or local law. Approval does not by itself constitute an FAA implementing action. A request for Federal action or approval to implement specific noise compatibility measures may be required, and an FAA decision on the request may require an environmental assessment of the proposed action. Approval does not constitute a commitment by the FAA to financially assist in the implementation of the program nor a determination that all measures covered by the program are eligible for grant-in-aid funding from the FAA. Where federal funding is sought, requests for project grants must be submitted to the FAA Texas Airport Development Office in Fort Worth, Texas.

The city of San Antonio submitted to the FAA on January 23, 1991, the noise exposure maps, descriptions, and other documentation produced during the noise compatibility planning study conducted from September 1987 through December 1990. The San Antonio International Airport noise exposure maps were determined by FAA to be in compliance with applicable requirements on April 12, 1991. Notice of this determination was published in the **Federal Register** on April 26, 1991.

The San Antonio International Airport study contains a proposed noise compatibility program comprised of actions designed for phased

implementation by airport management from the date of study completion beyond the year 1993. It was requested that the FAA evaluate and approve this material as a noise compatibility program as described in section 104(b) of the Act. The FAA began its review of the program on April 12, 1991 and was required by a provision of the Act to approve or disapprove the program within 180 days (other than the use of new flight procedures for noise control). Failure to approve or disapprove such program within the 180-day period shall be deemed to be an approval of such program.

The submitted program contained 11 proposed actions for noise mitigation on and off the airport. The FAA completed its review and determined that the procedural and substantive requirements of the Act and FAR part 150 have been satisfied. The overall program, therefore, was approved by the Administrator effective October 8, 1991.

Outright approval was granted for all of the specific program elements. The program elements include establishment of the position of noise abatement officer, a noise abatement advisory committee, noise monitoring, and a noise complaint monitoring program. Operational measures include voluntary a Stage 2 aircraft noise abatement departure profile, airfield signing advisory program, specified engine run-up locations, voluntary increase in Stage 3 fleet percentages. Other off airport administrative elements include comprehensive land use planning and zoning, avigation easements and acoustical treatment of public buildings, and a disclosure ordinance.

These determinations are set forth in detail in a Record of Approval endorsed by the Administrator on October 8, 1991. The Record of Approval, as well as other evaluation materials and the documents comprising the submittal, are available for review at the FAA office listed above and at the administrative offices of the city of San Antonio Department of Aviation.

Issued in Fort Worth, Texas, November 4, 1991.

George D. Conley,

Manager, Texas Airport Development Office.

[FR Doc. 91-27874 Filed 11-19-91; 8:45 am]

BILLING CODE 4910-13-M

McCarran International Airport, NV; Notice of Intent To Rule on Application

AGENCY: Federal Aviation Administration, DOT.

ACTION: Notice of intent to rule on application to impose a passenger facility charge (PFC) at McCarran International Airport, Las Vegas, Nevada.

SUMMARY: The Federal Aviation Administration (FAA) proposes to rule and invites public comment on the following application to impose a PFC at McCarran International Airport use at McCarran International Airport.

This application is in addition to four applications which were the subject of notice in the **Federal Register** on October 29, 1991. The PFC and its use is proposed under the provisions of the Aviation Safety and Capacity Expansion Act of 1990 (title IX of the Omnibus Budget Reconciliation Act of 1990) (Pub. L. 101-508) and 14 CFR part 158.

On November 12, 1991, the FAA determined that the application listed above submitted by Clark County, Nevada, was substantially complete within the requirements of § 158.25 of part 158. THe FAA will approve or disapprove the application, in whole or in part, no later than February 26, 1992.

DATES: Comments must be received on or before December 23, 1991.

ADDRESSES: Comments on this application may be mailed or delivered in triplicate to the FAA at the following address: Federal Aviation Administration, Airports District Office, 831 Mitten Road, room 210, Burlingame, California 94010-1303.

In addition, one copy of any comments submitted to the FAA must be mailed or delivered to Mr. Robert N. Broadbent, Director of Aviation, of the Clark County Department of Aviation at the following address: Clark County Department of Aviation, P.O. Box 11005, Las Vegas, Nevada 89111.

Comments from air carriers and foreign air carriers may be in the same form as provided to Clark County under § 158.23 of part 158.

FOR FURTHER INFORMATION CONTACT: Mr. Joseph R. Rodriquez, Supervisor, Planning/Programming, Airports District Office, 831 Mitten Road, room 210, Burlingame, California 94010-1303, (415) 876-2805. The applications may be reviewed in person at this same location.

SUPPLEMENTARY INFORMATION: The following is a brief overview of the application.

Level of proposed PFC: $3.00.

Proposed charge effective date: March 1, 1992.

Proposed charge expiration date: March 1, 2022.

Total estimated PFC revenue: $1,416,290,000.

Brief description of proposed projects:

912. Airport Connector—Tunnel Portion.
913. Airport Connector—Southern Access Roadway.
914. Airport Connector—Paradise Road Portion.
901. Concourse C Expansion—Terminal.
933. Concourse C Expansion—Apron Expansion.
948. Terminal Remodel West of Rotunda.
928. Federal Aviation Regulations (FAR) Part 150 Program Update.
945. West Side Flood Control Study.
927. Noise Mitigation Programs.
946. Airfield Study and Environmental Assessment.
949. Charter/International Terminal.
1001. Land Acquisition: West of Fence.
1002. Land Acquisition: Russell/Burnham Subdivision.
1004. Land Acquisition: Runway 1R Protection Zone.
1006. Land Acquisition: Airport Connector—Southern Access Roadway Right-of-Way.
1010. Land Acquisition: Ldn 75, Severe Aircraft Noise Exposure.
1012. Land Acquisition: Paradise Shopping Center.
1013. Land Acquisition: Gold Dust Area.
952. Bond Issuance Costs.
953. Debt Service Reserve Funding.

Availability of Application

Any person may inspect the application in person at the FAA office listed above. In addition, any person may, upon request, inspect the application, notice, and other documents germane to the application at the Clark County Department of Aviation.

Issued in Hawthorne, California on November 12, 1991.

Herman C. Bliss,

Manager, Airports Division, Western-Pacific Region.

[FR Doc. 91-27880 Filed 11-19-91; 8:45 am]

BILLING CODE 4910-13-M

National Highway Traffic Safety Administration

[Docket No. 90-01-VE-NO 5]

Notice of Final Determinations That Certain Nonconforming Vehicles are Eligible for Importation

AGENCY: National Highway Traffic Safety Administration, DOT.

ACTION: Final determinations that certain nonconforming vehicles are eligible for importation.

SUMMARY: This notice announces final determinations by the National Highway

Traffic Safety Administration (NHTSA) that certain motor vehicles that were not originally manufactured to comply with the Federal motor vehicle safety standards are nevertheless eligible for importation into the United States because they

(1) Are substantially similar to motor vehicles which were originally manufactured and certified to conform to the Federal standards and were imported into and sold in the United States, and

(2) Are capable of being readily modified to conform to all applicable Federal motor vehicle safety standards.

A notice of tentative determinations on these vehicles was published on April 25, 1990.

DATES: The determinations are effective upon publication in the **Federal Register**.

FOR FURTHER INFORMATION CONTACT: Ted Bayler, Office of Vehicle Safety Compliance, NHTSA (202–366–5306).

SUPPLEMENTARY INFORMATION: In order that the public fully understand the final determinations of this notice, NHTSA refers the reader to the full discussion that was provided in the notice of tentative determinations published on April 25, 1990 (55 FR 17518) and in the first notice of final determinations published on November 13, 1990 (55 FR 47418).

Background

On April 25, 1990, NHTSA published tentative determinations of eligibility with respect to certain motor vehicles that were not certified by their original manufacturers under section 114 of the National Traffic and Motor Vehicle Safety Act, 15 U.S.C. 1381 *et seq.* ("the Act"), as conforming to all applicable Federal motor vehicle safety standards. These vehicles included certain nonconforming passenger cars manufactured in Great Britain, Germany, Italy, and Japan, which were substantially similar to conforming counterparts manufactured and certified for sale in the United States and which had been the subject of sufficient demonstrations of conformance since 1987 to justify release of the performance bond under which they entered the United States.

In identifying those vehicles, NHTSA first chose the most frequently imported models and model years of foreign motor vehicles not originally manufactured to conform to the U.S. standards that were admitted during 1988 and 1989. The agency then decided that if at least 10 model and model years of a particular vehicle had been imported in those years, and compliance work on the vehicle was found satisfactory, a basis exists upon which a tentative determination could be made that the vehicle was readily capable of conformance. The agency identified almost 500 imported nonconforming passenger cars that met these qualifications. These included 106 manufactured by BMW, 5 by Ferrari, 15 by Jaguar, 3 by Mazda, 279 by Mercedes-Benz, 10 by Nissan, 51 by Porsche, 10 by Rolls-Royce, and 12 by Toyota. A complete listing of these vehicles, by make, model, and model year, appears in an Annex to the Notice of Tentative Determinations at 55 FR 17522–23.

On November 13, 1990, NHTSA published a Notice of Final Determinations (55 FR 47418) identifying 172 of these nonconforming passenger cars as eligible for importation into the United States. Those determinations were based on the finding that each of the covered vehicles is substantially similar to a car originally manufactured for importation into and sale in the United States, certified under section 114 of the Act, and of the same model year, and is capable of being readily modified to conform to all applicable Federal motor vehicle safety standards. Of the models for which final determinations were made, 59 were manufactured by BMW, 4 by Ferrari, 2 by Jaguar, 1 by Mazda, 83 by Mercedes-Benz, 19 by Porsche, 1 by Rolls-Royce, and 3 by Toyota. A complete listing of these vehicles, by make, model, and model year, appears in an Annex to the Notice of Final Determinations at 55 FR 47421–22.

Since publishing the November 1990 notice, NHTSA has continued to review manufacturers' records of vehicles certified for sale in this country and its enforcement files to identify, among the vehicles that it had tentatively determined to be eligible for importation, those for which it has received a sufficient number of acceptable compliance statements to permit a final determination of such eligibility to be made. On the basis of that review, the agency has made final determinations that an additional 95 models of passenger cars for which it previously made tentative determinations are eligible for importation into this country. Of those models, 37 are manufactured by BMW, 3 by Jaguar, 1 by Mazda, 47 by Mercedes Benz, 4 by Nissan, and 3 by Porsche. A complete listing of these vehicles, by make, model, and model year, appears in Annex A to this notice.

Additionally, NHTSA has identified certain corrections that must be made to the list of vehicles for which it had previously made final determinations of eligibility for importation, as found in Annex A to the November 13, 1990 Notice of Final Determinations at 55 FR 47421–22. The first of those corrections requires the deletion of Mercedes Benz model 280S, model number 116.020, model year 1975 through 1980, which appears on the final determination list under VSA #51. This vehicle must be deleted from the final determination list because it was manufactured only for the U.S. market, and therefore conformed, and was certified as conforming, with Federal standards at the time of importation. Additionally, the entries for certain other vehicles on the final determination list must be corrected to eliminate typographical errors that appeared in that list when it was first published. These entries, as corrected, appear in Annex B to this notice.

Importation Code Numbers for Eligible Vehicles

The importer of a vehicle admissible under any final determination must indicate on the Form HS–7 accompanying entry the appropriate "VSA #" indicating that the vehicle is eligible for entry. VSA numbers for the vehicles that are covered by this notice appear in the first column of the final determination list in Annex A.

Fees

Section 108(c)(3)(A)(iii) requires registered importers to pay such fees as NHTSA reasonably establishes to cover its cost in making determinations under subsection (i)(I) on its own initiative that motor vehicles are eligible for importation. Pursuant to implementing regulations found at 49 CFR 594.8, NHTSA assesses a fee of $156 upon each registered importer who submits a statement of conformity for a vehicle covered by an eligibility determination made on NHTSA's own initiative.

Theft Prevention Standard Reminder

Some of the passenger cars covered by this notice of Final Determinations are included in car lines subject to the requirements of 49 CFR part 541, *Federal Motor Vehicle Theft Prevention Standard*. Under the standard, certain vehicle parts must be marked before the vehicle can enter the United States. Unlike its authority with respect to the Federal motor vehicle safety and bumper standards, NHTSA has no authority to allow post-entry conformance of passenger cars subject to the theft prevention standard. Accordingly, the agency wishes to advise importers who may be interested in importing a passenger car covered by

this determination to refer to appendix A of part 541 to see whether the car appears on the list, and, if it does, to ensure that the parts specified are marked appropriately and that the required certification label is attached before the car is offered for entry.

Final Determinations

Accordingly, on the basis of the foregoing, NHTSA hereby determines that each of the passenger cars listed in Annex A is substantially similar to a passenger car originally manufactured for importation into and sale in the United States, certified under section 114 of the National Traffic and Motor Vehicle Safety Act, and of the same model year, and is capable of being readily modified to conform to all applicable Federal motor vehicle safety standards.

(15 U.S.C. 1397(c)(3)(A)(i)(I) and 1397(c)(3)(C)(iii); 49 CFR 593.8; delegations of authority at 49 CFR 1.50 and 501.8)

Dated: November 13, 1991.

Frederick H. Grubbe,

Deputy Administrator.

ANNEX A.—NONCONFORMING MOTOR VEHICLES ELIGIBLE FOR ENTRY INTO THE U.S.

VSA No.	Model type	Model year
	BMW	
12	3.0CSi and 3.0CSiA	1972 through 1974.
16	320, 320i, and 320iA	1976 and 1984 through 1985.
18	633CSi and 633CSiA.	1977.
19	733i and 733iA	1977.
20	528i and 528iA	1982 through 1984.
23	318i and 318iA	1981, 1982, and 1986.
27	635, 635CSi, and 635CSiA.	1979 through 1984.
28	735, 735i, and 735iA	1980 through 1984.
30	325, 325i, 325iA, and 325E.	1985 and 1986.
66	316	1978 through 1982.
67	323i	1978 through 1985.
68	520 and 520i	1978 through 1980, 1982 and 1983.
69	525 and 525i	1979, 1980, and 1982.
70	728 and 728i	1977 through 1985.
71	730, 730i, and 730iA	1978 through 1980.
72	732i	1980 through 1984.
73	745i	1980 through 1986.
	Jaguar	
40	XJS	1980.
41	XJ6	1985 and 1986.
	Mazda	
42	RX7	1978.
	Mercedes Benz	
44	280 SLC	1975 and 1977 through 1981.
	350 SLC	1972 through 1979.
	300 SL	1986 through 1988.
	280 SL	1969, 1970, 1975, 1976, and 1978 through 1985.
	350 SL	1971 through 1973, and 1978.
	380 SL	1980.
	500 SL	1980, 1982, 1984, and 1985.
	420 SL	1986.
50	200	1976.
51	280 S	1973 and 1974.
	280 SE	1972 through 1980.
	280 SEL	1978 through 1980.
	350 SE	1973 through 1980.
	350 SEL	1976 and 1979.
52	200	1976 through 1980.
	230	1976.
	250	1976 through 1983.
	280	1976.
	280 E	1976.
	230 C	1978 through 1980.
	280 CE	1977.
	200 D	1980 through 1982.
	300 D	1976.
	200	1979 through 1985.
	230 CE	1980 through 1984.
53	280 S	1980 through 1983.
	280 SE	1980 through 1985.
	280 SEL	1980 through 1985.
	300 SE	1986 and 1987.
	300 SEL	1986.
	380 SE	1980 through 1983.
	380 SEL	1980.
	420 SE	1986.
	500 SE	1980 through 1986.
	500 SEL	1980 through 1983.
	500 SEC	1982 and 1983.
54	190 E	1983.
	190 E	1986.
	190 E	1984 and 1985.
55	200	1985.
	230 E	1985 through 1987.
	260 E	1986.
	300 E	1985.
	230 TE	1985.
	300 D	1985 and 1986.
	300 D Turbo	1985.
	300 D Turbo	1986.
	Nissan	
75	Z and 280Z	1978 and 1979.
	Fairlady and Fairlady Z.	1975 through 1979.
	Porsche	
59	924	1976.
60	928	1976.
61	944	1982 and 1983.

Annex B—Corrections to List of Nonconforming Vehicles Eligible for Entry into the U.S. Found in Annex A to NHTSA's Notice of Final Determinations Published on November 13, 1990 at 55 FR 47421–22

1. The entry under VSA #5 for BMW "Model type 1500 and 2500A" manufactured in model years 1969 through 1970 is corrected to read "Model type 2500 and 2500A."

2. The entry under VSA #25 for BMW "Model type 535i and 55iA" manufactured in model years 1985 through 1989 is corrected to read "Model type 535i and 535iA."

3. The entry under VSA #44 for Mercedes Benz "Model type 44390 SLC, Model ID 107.025" manufactured in model years 1981 through 1989 is corrected to read "Model type 380 SLC, Model ID 107.025."

4. The entry under VSA #44 for Mercedes Benz "Model type 500 SL, Model ID 107.048" manufactured in model years 1986 through 1989 is corrected to read "Model type 500 SL, Model ID 107.046."

5. The entry under VSA #51 for Mercedes Benz "Model type 300 SD, Model ID 116.120" manufactured in "Model years 1978 and 1970" is deleted in its entirety.

6. The entry under VSA #54 for Mercedes Benz "Model type 300 DT, Model ID 124.133" manufactured in model years 1986 through 1989 is deleted and inserted under VSA #55.

[FR Doc. 91–29820 Filed 11–19–91; 8:45 am]

BILLING CODE 4910–59–M

[Docket No. 91-48; Notice 1]

Tentative Determinations That Certain Nonconforming Vehicles are Eligible for Importation

AGENCY: National Highway Traffic Safety Administration, DOT.

ACTION: Tentative determinations that certain nonconforming vehicles are eligible for importation.

SUMMARY: This notice requests comments on tentative determinations by the National Highway Traffic Safety Administration (NHTSA) that certain motor vehicles that were not originally manufactured to comply with the Federal motor vehicle safety standards are nevertheless eligible for importation into the United States because they

(1) Are substantially similar to motor vehicles which were originally manufactured to conform to the Federal standards and to be imported into and sold in the United States, and

(2) Are capable of being readily modified to conform to all applicable Federal motor vehicle safety standards.

DATES: The closing date for comments on these tentative determinations is December 20, 1991.

ADDRESSES: Comments should refer to the docket and notice numbers and be submitted to Docket Section, National Highway Traffic Safety Administration, room 5109, 400 Seventh St., SW., Washington, DC 20590.

FOR FURTHER INFORMATION CONTACT: Ted Bayler, Office of Vehicle Safety Compliance, NHTSA (202-366-5306).

SUPPLEMENTARY INFORMATION:

Background

Under section 108(c)(3)(A)(ii) of the National Traffic and Motor Vehicle Safety Act (15 U.S.C. 1381 *et seq.*) (the Act), a motor vehicle that was not originally manufactured to conform to all applicable Federal motor vehicle safety standards shall be refused admission into the United States on and after January 31, 1990, unless NHTSA has determined, either pursuant to a petition or on its own initiative, that the motor vehicle

> is substantially similar to a motor vehicle originally manufactured for importation and sale into the United States, certified under section 114 (of the Act), and of the same model year * * * as the model of the motor vehicle to be compared, and is capable of being readily modified to conform to all applicable Federal motor vehicle safety standards,

(section 108(c)(3)(A)(i)(I)) or that, "where there is no substantially similar United States motor vehicle," the agency has determined that the

> safety features of the motor vehicle comply with or are capable of being modified to comply with all applicable Federal motor vehicle safety standards based on destructive test data or such other evidence as the Secretary determines to be adequate * * *

(section 108(c)(3)(A)(i)(II)).

As NHTSA noted in the preamble to the final rule establishing 49 CFR part 593 (54 FR 49003; September 29, 1989), which governs determinations that a vehicle not originally manufactured to conform to the Federal motor vehicle safety standards is eligible for importation, the phrases "substantially similar" and "capable of being readily modified" are not defined by the 1988 amendments to the Act.

As to the first phrase, NHTSA assumes at the outset that a vehicle is "substantially similar" to another which was originally manufactured for importation and sale in the United States and which bore its original manufacturer's certification, if the differences between the two vehicles in visual appearance and structural details are minor, aside from any differences owing to the noncompliance of one vehicle with the Federal motor vehicle safety standards.

The question of modification capability is not reached if a vehicle already conforms to a safety standard. To substantiate that no modification is required with respect to that standard, a letter from the vehicle's original manufacturer would confirm that the vehicle model under consideration was manufactured to comply with the standard. This method of substantiation would be appropriate for determinations based on the substantial similarity of a nonconforming vehicle to one that has been certified to be in compliance with the standards, as well as for determinations based on the capability of the nonconforming vehicle to be modified to comply with the standards.

With regard to whether a vehicle is "capable of being readily modified," many components that are visible when the vehicle is fully assembled may be considered capable of being readily modified if they may be easily replaced with parts intended as replacements for conforming parts on substantially similar certified vehicles. For passenger cars, these components would include, but not be limited to, tires (Standard No. 109), rims (Standard No. 110), and wheel covers (Standard No. 211), glazing (Standard No. 205), reflecting surfaces (Standard No. 107), controls and displays (Standard No. 101), and lighting devices (Standard No. 108). Other components, not readily visible, may also be easily replaced with conforming parts. These include brake hoses (Standard No. 106), and brake fluid (Standard No. 116).

The ease of parts replacement, however, could not normally be used to determine conformance with vehicle standards, as opposed to those that apply to equipment items. This results from the fact that conformance with vehicle standards typically requires more than the switching of easily replaceable parts. For example, visual inspection would not indicate whether the steering column would need to be replaced so that the vehicle would comply with Standard No. 204, *Steering control rearward displacement*, or whether the interior fabrics (other than leather) would meet the flammability resistance required by Standard No. 302, *Flammability of interior materials*, because the tests for compliance with these standards include destructive demonstration procedures.

To address compliance with the vehicle standards, a second level of decision making is necessary, one that focuses upon the question of whether the modifications necessary for conformance are "readily" achievable. Information demonstrating that compliance can be achieved without major structural modifications or destructive component testing is relevant to this issue. A major structural modification could mean, for example, strengthening of the rear frame rails or rear body structure in order to achieve conformance with Standard No. 301, *Fuel system integrity*. An example of a non-major structural modification could be installation of windshield retaining clips for conformance with Standard No. 212, *Windshield mounting*. On the assumption that a "substantially similar" vehicle may be more likely to incorporate structural features of vehicles certified by their original manufacturer for sale in the U.S. than vehicles for which there is no U.S. certified model, the Administrator may be more willing to accept information other than crash data to indicate that a substantially similar vehicle is readily modifiable to achieve conformance. On the other hand, a vehicle would not appear to be capable of being readily modified if major structural modifications are required for compliance. It may be difficult to readily modify a vehicle to achieve conformance with some of the applicable standards, such as those governing automatic restraints (Standard No. 208), seat belt anchorages (Standard No. 210), roof structure (Standard No. 216), windshield intrusion (Standard No. 219), and fuel system integrity (Standard No. 301).

Over the years, the typical practice of manufacturers outside the United States who wish to sell passenger cars in the American market has been to offer versions of their home-market products that they have re-engineered and originally manufactured to conform to the Federal motor vehicle safety standards. The so-called "gray market" is compromised of foreign motor vehicles not originally manufactured to conform to the U.S. standards. In many instances, these vehicles are equipped with a body whose visual appearance, other than lighting equipment, bumpers, and rear view mirrors, is identical to that of U.S. certified vehicles, and share with those vehicles a large number of the same structural components.

In making a determination of eligibility for importation, NHTSA is required by section 108(c)(3)(C)(iii) to give due consideration to information available to it. The primary information that is readily available to the agency consists of its own records, reflecting the importation of noncomplying motor vehicles under bond over the years, and data submitted by the importers of those vehicles to substantiate statements that they have been brought into compliance with all applicable Federal motor vehicle safety standards. Much of the data supplied by importers that NHTSA found acceptable relate to modifications of a relatively minor nature, which do not require major structural modifications or destructive component testing. For example, NHTSA does not consider the installation of reinforcement beams in doors to be a major structural modification. Installation of beams has been considered sufficient support for the importer's declaration that the vehicle has been brought into conformance with Standard No. 214, *Side door strength*, after review of stress analysis calculations for the configurations utilized. As another example, adhesives have been added to windshields as a guarantor of compliance under the dynamic test conditions of Standard No. 212, *Windshield mounting*. Because a vehicle certified as complying with the Federal motor vehicle safety standards by its original manufacturer is a variation of one that is not so certified, but is "substantially similar" to it, the agency believes that a "substantially similar" vehicle will be more likely to incorporate structural features adaptable for purposes of conformance than will vehicles for which there is no substantially similar U.S. certified model.

On November 13, 1990, NHTSA published a Notice of Final Determinations (55 FR 47418) identifying 172 separate models of nonconforming passenger cars as eligible for importation into the United States. Those determinations were based on the finding that each of the covered vehicles is substantially similar to a car originally manufactured for importation into and sale in the United States, certified under section 114 of the Act, and of the same model year, and is capable of being readily modified to conform to all applicable Federal motor vehicle safety standards. Of the models for which final determinations were made, 59 were manufactured by BMW, 4 by Ferrari, 2 by Jaguar, 1 by Mazda, 83 by Mercedes Benz, 19 by Porsche, 1 by Rolls-Royce, and 3 by Toyota. A complete listing of these vehicles, by make, model, and model year, appears in an Annex to the Notice of Final Determinations at 55 FR 47421–22. As stated in that notice, NHTSA had initially selected each of those vehicles because it appeared to be an equivalent counterpart to a passenger car certified by its original manufacturer for importation into and sale in the United States and because the agency had received no fewer than ten acceptable compliance statements for each model during calendar years 1988 and 1989.

NHTSA has continued to review its enforcement records to identify vehicles for which it has received a number of acceptable compliance statements, as well as records from manufacturers identifying vehicles certified for importation into and sale in the United States. On the basis of this review, the agency has identified 36 additional models that appear to be eligible for importation into this country. Of these models, 6 are manufactured by BMW, 5 by Ferrari, 2 by Jaguar, 20 by Mercedes Benz, 2 by Nissan, and 1 by Porsche. A complete listing of these vehicles, by make, model, and model year, appears in Annex A to this notice.

Tentative Determinations

Accordingly, on the basis of the foregoing, NHTSA hereby tentatively determines that each of the passenger cars listed in Annex A is substantially similar to a passenger car originally manufactured for importation into and sale in the United States, certified under section 114 of the National Traffic and Motor Vehicle Safety Act, and of the same model year, and is capable of being readily modified to conform to all applicable Federal motor vehicle safety standards.

Fees

Section 108(c)(3)(A)(iii) requires registered importers to pay such fees as NHTSA reasonably establishes to cover its cost in making determinations under subsection (i)(I) on its own initiative that motor vehicles are eligible for importation. Pursuant to implementing regulations found at 49 CFR 594.8, NHTSA assesses a fee of $156 upon each registered importer who submits a statement of conformity for a vehicle covered by an eligibility determination made on NHTSA's own initiative.

Comments

Section 108(c)(3)(C)(iii) requires NHTSA to provide a minimum period for public notice and comment on the determinations made on its own initiative consistent with ensuring expeditious, but full, consideration and avoiding delay by any person. NHTSA believes that a minimum comment period of 30 calendar days is appropriate for this purpose. Interested persons are invited to submit comments on the tentative determinations described above. It is requested, but not required, that five copies be submitted.

All comments received before the close of business on the comment date indicated below will be considered. A document providing the make, type, year of manufacture, and number of imported nonconforming vehicles released as conforming by NHTSA since January 31, 1988, and all comments received are available for examination in the docket. Comments received after the closing date will be considered to the extent practicable. Notice of NHTSA's final determination will be published in the **Federal Register** pursuant to the authority indicated below.

Comment due date: December 20, 1991.

Authority: 15 U.S.C. 1397(c)(3)(A)(i)(I) and 1397(c)(3)(C)(iii); 49 CFR 593.8; delegations of authority at 49 CFR 1.50 and 501.8)

Dated: November 13, 1991.

Frederick H. Grubbe,

Deputy Administrator.

ANNEX A.—PASSENGER CARS COVERED BY TENTATIVE DETERMINATION

Vehicle make	Vehicle model	Year manufactured
BMW	318i, 318Ai	1983, and 1987 through 1989.
BMW	520, 520i	1981.
BMW	525, 525i	1981.
Ferrari	208, 208 Turbo (all models).	1974 through 1988.
Ferrari	308 (all models).	1974 through 1979, 1981 through 1985.
Ferrari	328 (all models).	1985; and 1988 through 1989.
Ferrari	Testarossa	1989

ANNEX A.—PASSENGER CARS COVERED BY TENTATIVE DETERMINATION—Continued

Vehicle make	Vehicle model	Year manufactured
Ferrari	Mondial (all models).	1980 through 1989.
Jaguar	XJS	1981 through 1985.
Jaguar	XJ6	1984.
Nissan	Z, 280 Z	1973 through 1977, 1980, and 1981.
Porsche	928	1977.

Vehicle make	Vehicle model	Model ID	Year manufactured
Mercedes Benz.	280SLC	107.022	1976.
Mercedes Benz.	500SLC	107.026	1978 through 1981.
Mercedes Benz.	280SL	107.042	1971 through 1974, and 1977.
Mercedes Benz.	350SL	107.043	1974 through 1977.
Mercedes Benz.	500SL	107.046	1981 and 1983.
Mercedes Benz.	560SL	107.048	1986 through 1989.
Mercedes Benz.	280SE (3.5)	108.057	1970 and 1971.
Mercedes Benz.	280SE (4.5)	108.067	1970 and 1971.
Mercedes Benz.	280SEL	116.025	1972 through 1977.
Mercedes Benz.	350SEL	116.029	1972 through 1975, and 1980.
Mercedes Benz.	250	123.026	1984 and 1985.
Mercedes Benz.	280C	123.050	1977 through 1980.
Mercedes Benz.	260E	124.026	1985.
Mercedes Benz.	300D Turbo	124.193	1987 through 1989.
Mercedes Benz.	300SE	126.024	1985.
Mercedes Benz.	300SEL	126.025	1987.
Mercedes Benz.	380SE	126.032	1979.
Mercedes Benz.	420SE	126.034	1985, and 1987 through 1989.
Mercedes Benz.	500SEC	126.044	1981.
Mercedes Benz.	190	201.022	1984.

[FR Doc. 91-27821 Filed 11-19-91; 8:45 am]
BILLING CODE 4910-59-M

DEPARTMENT OF THE TREASURY

Public Information Collection Requirements Submitted to OMB for Review

November 14, 1991.

The Department of Treasury has submitted the following public information collection requirement(s) to OMB for review and clearance under the Paperwork Reduction Act of 1980, Public Law 96-511. Copies of the submission(s) may be obtained by calling the Treasury Bureau Clearance Officer listed. Comments regarding this information collection should be addressed to the OMB reviewer listed and to the Treasury Department Clearance Officer, Department of the Treasury, room 3171 Treasury Annex, 1500 Pennsylvania Avenue, NW., Washington, DC 20220.

Comptroller of the Currency

OMB Number: 1557-0100.

Form Number: FFEIC 009 and FFEIC 009A.

Type of Review: Extension.

Title: (MA)—Country Exposure Report and Disclosure (12 CFR part 20)

Description: The Country Exposure Report and Country Exposure Disclosure require national banks to report quarterly their exposure in foreign countries and to disclose quarterly material exposures in foreign countries. This information is critical in determining and monitoring the soundness of banks.

Respondents: Businesses or other for-profit.

Estimated Number of Respondents: 320.

Estimated Burden Hours Per Response: 27 hours, 30 minutes.

Frequency of Response: Quarterly.

Estimated Total Reporting Burden: 35,200 hours.

Clearance Officer: John Ference (202) 447-1177, Comptroller of the Currency, 250 E Street, SW., Washington, DC 20219.

OMB Reviewer: Gary Waxman (202) 395-7340, Office of Management and Budget, room 3208, New Executive Office Building, Washington, DC 20503.

Lois K. Holland,

Departmental Reports Management Officer.

[FR Doc. 91-27912 Filed 11-19-91; 8:45 am]
BILLING CODE 4810-33-M

Public Information Collection Requirements Submitted to OMB for Review

November 14, 1991.

The Department of Treasury has submitted the following public information collection requirement(s) to OMB for review and clearance under the Paperwork Reduction Act of 1980, Public Law 96-511. Copies of the submission(s) may be obtained by calling the Treasury Bureau Clearance Officer listed. Comments regarding this information collection should be addressed to the OMB reviewer listed and to the Treasury Department Clearance Officer, Department of the Treasury, room 3171, Treasury Annex, 1500 Pennsylvania Avenue, NW., Washington, DC 20220.

Internal Revenue Service

OMB Number: 1545-1035.

Form Number: IRS Form 8611.

Type of Review: Extension.

Title: Recapture of Low-Income Housing Credit.

Description: Internal Revenue Code (IRC) section 42 permits owners of residential rental projects providing low-income housing to claim a credit against their income tax. If the property is disposed of or it fails to meet certain requirements over a 15-year compliance period, the owner must recapture on Form 8611 part of the credit(s) taken in prior years.

Respondents: Individuals or households, businesses or other for-profit, small businesses or organizations.

Estimated Number of Respondents/Recordkeepers: 1,200.

Estimated Burden Hours Per Respondent/Recordkeeper:

Recordkeeping	5 hrs., 59 min.
Learning about the law or the form	1 hr., 5 min.
Preparing and sending the form to IRS	1 hr., 14 min.

Frequency of Response: On occasion.

Estimated Total Reporting/Recordkeeping Burden: 9,972 hours

OMB Number: 1545-1096.

Form Number: IRS Form 9117.

Type of Review: Extension.

Title: Excise Tax Program Order Blank for Forms and Publications.

Description: Form 9117 allows taxpayers who must file Form 720 returns a systemic way to order additional tax forms and informational publications.

Respondents: Businesses or other for-profit, Small businesses or organizations.

Estimated Number of Respondents: 15,000.

Estimated Burden Hours Per Respondent: 2 minutes.

Frequency of Response: Annually.

Estimated Total Reporting Burden: 500 hours.

Clearance Officer: Garrick Shear (202) 535-4297, Internal Revenue Service, room 5571, 1111 Constitution Avenue, NW., Washington, DC 20224.

OMB Reviewer: Milo Sunderhauf (202) 395-6880, Office of Management

and Budget, room 3001, New Executive Office Building, Washington, DC 20503.

Lois K. Holland,

Departmental Reports, Management Officer.

[FR Doc. 91-27913 Filed 11-19-91; 8:45 am]

BILLING CODE 4830-01-M

Public Information Collection Requirements Submitted to OMB for Review

November 14, 1991.

The Department of Treasury has submitted the following public information collection requirement(s) to OMB for review and clearance under the Paperwork Reduction Act of 1960, Public Law 96-511. Copies of the submission(s) may be obtained by calling the Treasury Bureau Clearance Officer listed. Comments regarding this information collection should be addressed to the OMB reviewer listed and to the Treasury Department Clearance Officer, Department of the Treasury, room 3171 Treasury Annex, 1500 Pennsylvania Avenue, NW., Washington, DC 20220.

Financial Management Service

OMB Number: 1510-0059.
Form Number: FMS 5510.
Type of Review: Extension.

Title: Authorization Agreement for Preauthorized Payment.

Description: The Authorization Agreement for Preauthorized Payments is used by remitters (individuals and corporations) to authorize electronic fund transfers from the bank accounts maintained at financial institutions for government agencies to collect monies.

Respondents: Individuals or households, businesses or other for-profit, Federal agencies or employees.

Estimated Number of Respondents: 100,000.

Estimated Burden Hours Per Response: 15 minutes.

Frequency of Response: On occasion.

Estimated Total Reporting Burden: 25,000 hours.

Clearance Officer: Jacqueline R. Perry (301) 436-6453, Financial Management Service, 3361-L 75th Avenue, Landover, MD 20785.

OMB Reviewer: Milo Sunderhauf (202) 395-6880, Office of Management and Budget, room 3001, New Executive Office Building, Washington, DC 20503.

Lois K. Holland,

Departmental Reports, Management Officer.

[FR Doc. 91-27914 Filed 11-19-91; 8:45 am]

BILLING CODE 4810-35-M

DEPARTMENT OF VETERANS AFFAIRS

Special Medical Advisory Group; Meeting

The Department of Veterans Affairs gives notice under Public Law 92-463 that a meeting of the Special Medical Advisory Group will be held on December 5-6, 1991, at the Ramada Renaissance Hotel, 999 9th Street, NW., Washington, DC. The purpose of the Special Medical Advisory Group is to advise the Secretary and Chief Medical Director relative to the care and treatment of disabled veterans, and other matters pertinent to the Department's Veterans Health Administration. The session on December 5 will convene at 6 p.m. and the session on December 6 will convene at 8 a.m. All sessions will be open to the public up to the seating capacity of the rooms. Because this capacity is limited, it will be necessary for those wishing to attend to contact Lorri Fertal, Office of the Chief Medical Director, Department of Veterans Affairs (phone 202/535-7603) prior to December 3, 1991.

Dated: November 7, 1991.

By Direction of the Secretary:

Diane H. Landis,

Committee Management Officer.

[FR Doc. 91-27889 Filed 11-19-91; 8:45 am]

BILLING CODE 8320-01-M

Sunshine Act Meetings

Federal Register
Vol. 56, No. 224
Wednesday, November 20, 1991

This section of the FEDERAL REGISTER contains notices of meetings published under the "Government in the Sunshine Act" (Pub. L. 94-409) 5 U.S.C. 552b(e)(3).

FEDERAL MINE SAFETY AND HEALTH REVIEW COMMISSION

November 14, 1991.

TIME AND DATE: 10:00 a.m., Thursday, November 21, 1991.

PLACE: Room 600, 1730 K Street, N.W., Washington, D.C.

STATUS: Open.

MATTERS TO BE CONSIDERED: The Commission will consider and act upon the following:

1. *Explosives Technologies International, Inc.*, Docket No. CENT 90-95-M. (Issues include whether the judge properly found that the operator violated (1) 30 CFR § 56.5050(b) for failing to use feasible administrative or engineering controls to reduce drill operator's exposure to excessive noise; and (2) 30 CFR § 56.7002 for cracks in the boom support structure of a drill.

Any person attending this meeting who requires special accessibility features and/or auxiliary aids, such as sign language interpreters, must inform the Commission in advance of those needs. Subject to 29 CFR § 2700.150(a)(3) and § 2706.160(d).

CONTACT PERSON FOR MORE INFO: Jean Ellen (202) 653-5629/(202) 708-9300 for TDD Relay 1-800-877-8339 for Toll Free.

Jean H. Ellen,

Agenda Clerk.

[FR Doc. 91-28030 Filed 11-18-91; 12:20 pm]

BILLING CODE 6735-01-M

BOARD OF GOVERNORS OF THE FEDERAL RESERVE SYSTEM

TIME AND DATE: 10:00 a.m., Tuesday, November 26, 1991.

PLACE: Marriner S. Eccles Federal Reserve Board Building, C Street entrance between 20th and 21st Streets, N.W., Washington, D.C. 20551.

STATUS: Closed.

MATTERS TO BE CONSIDERED:

1. Personnel actions (appointments, promotions, assignments, reassignments, and salary actions) involving individual Federal Reserve System employees.
2. Any items carried forward from a previously announced meeting.

CONTACT PERSON FOR MORE INFORMATION: Mr. Joseph R. Coyne, Assistant to the Board; (202) 452-3204. You may call (202) 452-3207, beginning at approximately 5 p.m. two business days before this meeting, for a recorded announcement of bank and bank holding company applications scheduled for the meeting.

Dated: November 18, 1991.

Jennifer J. Johnson,

Associate Secretary of the Board.

[FR Doc. 91-28084 Filed 11-18-91; 3:48 pm]

BILLING CODE 6210-01-M

NATIONAL TRANSPORTATION SAFETY BOARD

TIME AND DATE: 9:30 a.m., Tuesday, November 26, 1991.

PLACE: Conference Room 3A (3rd Floor), 490 L'Enfant Plaza East, SW., Washington, DC 20594.

STATUS: Open.

MATTERS TO BE CONSIDERED:

5431A—Pipeline Accident Report: Natural Gas Explosion and Fire, U.S. Department of Defense, Fort Benjamin Harrison, Near Indianapolis, Indiana, December 9, 1990.

NEWS MEDIA CONTACT: Telephone (202) 382-0660.

FOR MORE INFORMATION CONTACT: Bea Hardesty, (202) 382-6525.

Dated: November 15, 1991.

Bea Hardesty,

Federal Register Liaison Officer.

[FR Doc. 91-27980 Filed 11-15-91; 4:58 pm]

BILLING CODE 7533-01-M

SECURITIES AND EXCHANGE COMMISSION AGENCY MEETING

Notice is hereby given, pursuant to the provisions of the Government in the Sunshine Act, Pub. L. 94-409, that the Securities and Exchange Commission will hold the following meeting during the week of November 18, 1991.

A closed meeting will be held on Tuesday, November 19, 1991, at 3:30 p.m.

Commissioners, Counsel to the Commissioners, the Secretary to the Commission, and recording secretaries will attend the closed meeting. Certain staff members who have an interest in the matters may also be present.

The General Counsel of the Commission, or his designee, has certified that, in his opinion, one or more of the exemptions set forth in 5 U.S.C. 552b(c)(4), (8), (9)(A) and (10) and 17 CFR 200.402(a)(4), (8), (9)(i) and (10), permit consideration of the scheduled matters at a closed meeting.

Commissioner Schapiro, as duty officer, voted to consider the items listed for the closed meeting in a closed session.

The subject matter of the closed meeting scheduled for Tuesday, November 19, 1991, at 3:30 p.m., will be:

Institution of injunctive actions.
Institution of administrative proceedings of an enforcement nature.
Settlement of administrative proceeding of an enforcement nature.
Settlement of injunctive actions.

At times, changes in Commission priorities require alterations in the scheduling of meeting items. For further information and to ascertain what, if any, matters have been added, deleted or postponed, please contact: Holly Smith at (202) 272-2100.

Dated: November 7, 1991.

Jonathan G. Katz,

Secretary.

[FR Doc. 91-28048 Filed 11-18-91; 12:43 pm]

BILLING CODE 8010-01-M

Corrections

Federal Register
Vol. 56, No. 224
Wednesday, November 20, 1991

This section of the FEDERAL REGISTER contains editorial corrections of previously published Presidential, Rule, Proposed Rule, and Notice documents. These corrections are prepared by the Office of the Federal Register. Agency prepared corrections are issued as signed documents and appear in the appropriate document categories elsewhere in the issue.

SMALL BUSINESS ADMINISTRATION

13 CFR Parts 108 and 120

Development Companies and Business Loans

Correction

In rule document 91-25885 beginning on page 55445 in the issue of Monday, October 28, 1991, make the following correction:

On page 55446, the table was incorrect and should appear as set forth below:

Owner	% of Holding Company		% of Operating
Father	50	Any combination	0
Mother	0		20
Son 1	15		0
Son 2	15		50
Son of Son 2	0		10
Key Manager	15	Mirror Image	15
1st cousin of father	5		5
	100		100

BILLING CODE 1505-01-D

federal register

Wednesday
November 20, 1991

Part II

Department of Commerce

National Oceanic and Atmospheric Administration

50 CFR Part 222

Policy on Applying the Definition of Species Under the Endangered Species Act to Pacific Salmon; Endangered and Threatened Species; Endangered Status for Snake River Sockeye Salmon; Notice and Final Rule

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[Docket No. 910248-1255]

Policy on Applying the Definition of Species Under the Endangered Species Act to Pacific Salmon

AGENCY: National Marine Fisheries Service (NMFS), NOAA, Commerce.

ACTION: Notice of policy.

SUMMARY: The Endangered Species Act of 1973, as amended, 16 U.S.C. 1531 *et seq.* (ESA) defines "species" to include any "distinct population segment of any species of vertebrate fish or wildlife which interbreeds when mature." NMFS announces its final policy on how it will apply this definition of "species" in evaluating Pacific salmon stocks for listing under the ESA. A salmon stock will be considered a distinct population, and hence a "species" under the ESA, if it represents an evolutionary significant unit (ESU) of the biological species. The stock must satisfy two criteria to be considered an ESU: (1) It must be substantially reproductively isolated from other nonspecific population units; and (2) it must represent an important component in the evolutionary legacy of the species. Only Pacific salmon stocks that meet these criteria will be considered by NMFS for listing under the ESA.

EFFECTIVE DATE: November 20, 1991.

FOR FURTHER INFORMATION CONTACT: Patricia Montanio, Protected Species Management Division, NMFS, 1335 East-West Highway, Silver Spring, MD 20910 (301/427-2322), or Rob Jones, Environmental and Technical Services Division, NMFS, Portland, OR 97232 (503/230-5401 or FTS/429-5401).

SUPPLEMENTARY INFORMATION:

Background

The stated purposes of the ESA are to "provide a means whereby the ecosystems upon which endangered species and threatened species depend may be conserved, (and) to provide a program for the conservation of such endangered species and threatened species" (ESA section 2(b)). A review of legislative history indicates that a major motivating factor behind the ESA was the desire to preserve a genetic variability, both between and within species. For example, the House Committee on Merchant Marine and Fisheries described the rationale for H.R. 37, a forerunner to the ESA, in the following terms (H.R. Rep. No. 412, 93d Cong., 1973):

> From the most narrow possible point of view, it is in the best interests of mankind to minimize the losses of genetic variations. The reason is simple: they are potential resources. They are keys to puzzles which we cannot yet solve, and may provide answers to questions which we have not yet learned to ask.

Under the original 1973 Act, a "species" was defined to include "any subspecies of fish or wildlife or plants and any other group of fish or wildlife of the same species or smaller taxa in common spatial arrangement that interbreed when mature." Use of this language established that the ESA protective measures extend to biological units below the subspecies level. Amendments in 1978 provided the current language in the ESA: A "species" is defined to include "* * * any subspecies of fish or wildlife or plants, and any distinct population segment of any species of vertebrate fish or wildlife which interbreeds when mature."

Congress has provided limited guidance for interpreting this definition. In 1979, Congress declined to enact a provision recommended by the General Accounting Office that would have removed the authority to list vertebrate populations. The Senate Report to the 1979 amendments, however, stated that "the committee is aware of the great potential for abuse of this authority and expects the FWS to use the ability to list populations sparingly and only when biological evidence indicates that such action is warranted" (S. Rep. No. 151, 96th Cong., 1979). The ESA also requires that all listing determinations be made solely on the basis of the best scientific and commercial data available (ESA section 4(b)(1)).

Both the U.S. Fish and Wildlife Service (FWS) and NMFS, which share jurisdiction under the ESA, have made listing determinations for populations of vertebrate species; but neither Service has established criteria for determining what qualifies as a distinct population. Joint regulations concerning Listing Endangered and Threatened Species and Designating Critical Habitat (50 CFR part 424) provide that a determination on whether or not a particular population is a "species" under the ESA should rely on the biological expertise of the agency and the scientific community (50 CFR 424.11(a)).

Interim Policy

In 1990, NMFS received petitions to list five stocks of Pacific salmon under the ESA. To address these and other Pacific salmon stocks, NMFS published its "Interim Policy on Applying the Definition of Species Under the Endangered Species Act to Pacific Salmon" (interim policy) on March 13, 1991 (56 FR 10542). In support of this interim policy, the NMFS Northwest Fisheries Center prepared a Technical Memorandum on "Definition of 'species' under the Endangered Species Act: Application to Pacific salmon," (Waples 1991). Comments on the interim policy and supporting paper were requested through June 11, 1991. NMFS used the interim policy in its proposed determinations to list the Snake River sockeye salmon (April 5, 1991; 56 FR 14055), the Snake River fall chinook salmon (June 27, 1991; 56 FR 29547), and the Snake River spring/summer chinook salmon (June 27, 1991; 56 FR 29542), and in its final determination not to list the Lower Columbia River coho salmon (June 27, 1991; 56 FR 29553).

Based on comments received, NMFS issues this final policy. The NMFS Northwest Fisheries Center has also revised the supporting paper "Pacific salmon and the definition of 'species' under the Endangered Species Act" (Waples In press Marine Fisheries Review), which is available upon request (see **FOR FURTHER INFORMATION CONTACT**). This final policy will be used in all Pacific salmon listing determinations until revised or superseded. NMFS has reviewed its "species" determination for the listed Sacramento River winter-run chinook salmon (February 27, 1978, 52 FR 6041; December 9, 1988, 53 FR 49722; August 4, 1989, 54 FR 32085; November 5, 1990, 55 FR 46515) and concludes that consideration of this final policy does not necessitate any change of that determination.

Summary of Comments and Responses

Twenty-one written comments were received. Fourteen respondents agreed with the general framework of the interim policy, although several had suggestions for improvements in specific details. Six respondents disagreed with the framework and believed that substantial changes are needed. Summaries of the major points and responses are provided below.

General

Comment: A number of comments were received on the process NMFS used in developing this policy. Two respondents believed that "distinct population" should be defined by rulemaking; one of these believed it should be subject to formal rulemaking under the Administrative Procedure Act (APA). Others believed the process violated APA because it is based on

material not available to the public, *i.e.*, the results of the 1990 Vertebrate Population Workshop, and because the "not warranted" and the proposed listing determinations on the petitioned stocks did not consider comments on the interim policy.

Response: NMFS believes its process is consistent with the requirements of the APA. Formal rulemaking is required under the APA only "when the rules are required by statute to be made on the record after opportunity for an agency hearing" (5 U.S.C. 553(c)). Developing a policy is not a prerequisite to making proposed or final determinations under the ESA. However, in view of the unique life history characteristics of salmon, NMFS believes a statement of policy is useful. Notice and comment procedures were used in developing this final policy, even though not required by the APA (5 U.S.C. 553(b)(A)). The basis for the interim policy, including concepts discussed at the 1990 Vertebrate Population Workshop, was set forth in the interim policy (56 FR 10542; March 13, 1991) and supporting paper (Waples 1991). Comments were requested and considered in developing this final policy. Future Pacific salmon listing actions, including the final determinations on Snake River sockeye and chinook salmon stocks, will use this final policy to evaluate whether or not the stocks qualify as "species" under the ESA. NMFS has reviewed the "species" determination and all comments received on the Lower Columbia River coho petition and concludes that this final policy does not change that determination.

Comment: One respondent believed that the definition of "species" is a legal interpretation subject to judicial review solely for consistency with Congressional intent and is not a factual "biological" determination subject to judicial deference to the agency expertise.

Response: NMFS recognizes that the definition of "species" under the ESA is in part a legal interpretation subject to judicial review. However, species and populations are biological concepts that must be defined on the basis of the best scientific and commercial data available, just as the decision to list "species" as endangered or threatened (see section 4(b)(1)(A) of the ESA). This final policy is based on all available techniques of statutory interpretation, including legal analysis, scientific usage, and public comments.

Comment: A number of comments were received on the need for a policy. Some respondents believed that a policy was unnecessary, that it would constrain the agency's authority to list populations, and that a straightforward application of the intent of the ESA to preserve genetic diversity should be used. These respondents believed that Congress clearly demonstrated an expansive intent to protect endangered and threatened wildlife, and any policy that narrows the definition of "species" is unwarranted and contrary to the intent of the ESA. One respondent believed that since Pacific salmon present a unique situation that Congress has never considered, language such as in the 1979 Senate Report (S. Rep. No. 151, 96th Cong., 1979) should not be used to limit the agency's authority to list populations.

Other respondents believed that a policy is needed that provides a general framework for determining populations, but leaves flexibility to take into account uncertainties and special circumstances. Some believed that, consistent with the expressed intent of the ESA, the authority to consider distinct populations should be exercised only in those relatively unique circumstances when a population can be shown to be truly distinct. These respondents believed that the management implications of listing each threatened or endangered population would put an enormous strain on agency resources.

Many other respondents believed that a more specific policy is needed to establish clear direction; otherwise definitions of species under the ESA could be subject to different interpretations and could be subject to abuse.

Response: NMFS does not believe that the intent of Congress is clear as to the meaning of "distinct population." The ESA allows vertebrate populations that are "distinct" to be considered "species," but does not explain how distinctness should be measured. Therefore, it is important that NMFS explain and notify the public of its interpretation of the ESA and how it will apply its interpretation to Pacific salmon. This final policy is intended to provide guidance, consistent with the ESA and the intent of Congress.

Further, NMFS does not believe that it is possible to establish highly specific or quantitative standards for determining distinct populations. The process of evolution and differentiation within and between species is manifest in many different ways. Many natural populations show varying degrees of distinctness, and the variations do not always have discrete boundaries. Expert scientific judgment is required in determining what should be considered distinct populations.

Comment: One respondent pointed out that listing of U.S. populations is allowed, citing language from the 1979 Senate Report:

> The U.S. population of an animal should not necessarily be permitted to become extinct simply because the animal is more abundant elsewhere in the world.

(S. Rep. No. 151, 96th Cong., 1979). This respondent also believed that it is not necessary that the U.S. population be reproductively isolated from non-U.S. populations.

Response: NMFS agrees that it may be appropriate to list U.S. populations of species more abundant elsewhere. Under the NMFS policy, a U.S. population could be listed if it is a "distinct population," *i.e.*, an ESU, based on the best scientific evidence available. NMFS believes that the population concept used in the ESA is a biological one, and that political boundaries alone should not be used to define populations. Biological populations must exhibit some degree of reproductive isolation, and, therefore, NMFS disagrees with the second point made by this respondent. However, the entire population (occurring within and outside of the United States) may qualify as an ESU and be considered for listing, particularly if the U.S. portion is a substantial portion of the ESU.

Comment: Two respondents believed that although the interim policy appears to be suitable for Pacific salmon, difficulties might be expended if it were to be applied to some other vertebrates.

Response: This final policy applies only to Pacific salmon, and NMFS will consider these broader comments in developing an overall policy of defining distinct vertebrate population under the ESA.

ESU Concept

Comment: Six respondents agreed that the primary purpose of the ESA is to protect "genetic diversity," "genetic variability," "unique genetic material," or "distinct evolutionary lineages," and one stated that the interim policy adequately addressed ecological concerns. Other respondents stressed the importance of preserving "biodiversity" and the "aesthetic, ecological, recreational, and scientific value" of species. One respondent argued that the interim policy does not adequately take into account the ecological significance of a population and its role in maintaining ecosystems, and another believed that protection of existing distributions of species should be a primary basis for "species" determination.

Response: NMFS recognizes the importance of conserving ecosystems, but this must be accomplished within the limits of what the ESA allows. In general, the ESA provides that the "purposes of the Act are to provide a means whereby the ecosystems upon which endangered and threatened species depend may be conserved * * *" (ESA section 2(b)). The key is the link between threatened and endangered species and their native ecosystems. There may be a number of good reasons for maintaining populations of "keystone" species in ecosystems where they play a key role in fostering diversity, but unless such populations can be shown to be "distinct," such efforts must be accomplished outside the purview of the ESA as presently written.

NMFS believes that its interpretation of the definition of "species" is consistent with the goal of the ESA to conserve genetic resources, both within and between species. If this goal is achieved, then other benefits of biodiversity follow naturally. Attempting to preserve populations for their aesthetic, scientific, or recreational value without regard to the underlying genetic basis for diversity focuses on attributes that are not directly related to long-term survival of the species. While NMFS supports efforts to maintain biological diversity, habitat conservation, and species distributions, NMFS does not believe that the provisions of the ESA provide specifically for these broader objectives.

Comment: Two respondents argued that the ESA allows listing of any geographic population, and that the populations do not have to be reproductively isolated or genetically distinct. One cited the 1987 House Report that states "Any species or subspecies of fish, wildlife, or plants may be listed. In addition, geographically distinct populations of vertebrate species may be listed." (H.R. Rep. No. 467, 100th Cong., 1987). Others argued that a population need only be reproductively isolated, and that the "evolutionary significance" criterion should be deleted. Still other respondents believed that reproductive isolation was not enough to qualify a population as a "species," and that the "evolutionary significance" criterion is appropriate.

Response: Biological populations, by definition, exhibit some degree of reproductive isolation from other populations, whether based on geographic separation or other factors. The reproductive isolation criterion is consistent with the definition of species in the ESA which includes "any distinct population * * * which interbreeds when mature." (ESA section 2(15)).

Further, NMFS does not believe that all populations are included in the ESA definition of "species." The ESA requires that a vertebrate population be "distinct" to qualify as a "species." NMFS believes its interpretation that, to be considered "distinct," a population (or group of populations) must meet the two criteria set out in the interim policy, is consistent with the ESA.

Comment: Several respondents believed that some words or terms should be more clearly defined, including "important component," "evolutionary legacy," "evolutionarily important," "significant loss," "contributes substantially," "substantially reproductively isolated," and some technical terms. Another respondent pointed out that the terms "unique habitat" and "unique adaptation" are not really very meaningful because, when considered on a fine scale, all habitats (and all adaptations) are unique in some way.

Response: NMFS has clarified where possible a number of the terms in the final policy and supporting paper, which provides more extensive explanation of how many of these concepts will be evaluated in practice. NMFS agrees with the respondent regarding use of the word "unique," and has changed the policy to refer to "unusual" or "distinctive" habitat and adaptations. Nevertheless, precise definitions are not possible for many of the terms, as discussed in the next response.

Comment: Many respondents argued that the concept of evolutionary significance is too subjective and asked for more definitive guidelines for making this determination. Several others argued that there are no universal markers that will unfailingly define distinct population segments: e.g., "a simple cookbook species definition is not scientifically defensible. Site specific and special-case factors are relevant and must be considered."

Response: NMFS recognizes that the framework of this final policy will not be as easy to apply as would a simple rule. Nevertheless, the wide diversity of views expressed by the respondents on virtually every issue lends credence to NMFS' belief that no simple yardstick will be universally applicable. Inevitably, basing the "species" determination on the best scientific information available will require some judgment.

Reproductive Isolation Criterion

Comment: A number of respondents emphasized the complexity of evaluating the degree of reproductive isolation in Pacific salmon. One stressed that reproductive isolation in these species is seldom absolute; therefore, the task is to identify cases of "significant" reproductive isolation. One, citing an example in which morphologically indistinguishable populations from the same drainage were shown to be chromosomally distinct, argued for caution in assuming that nearby populations are not isolated. Another respondent agreed, arguing that gene flow needs to be documented: "wandering does not equal straying * * * spawned-out fish, or even their offspring rearing in the stream, does not mean that the fish will survive to mature and leave offspring whose genes will enter the population." And, another respondent argued the opposing view, that minor genetic differences between populations should not necessarily be grounds for a finding of reproductive isolation. Another argued that geographic proximity may be irrelevant to the degree of reproductive isolation in Pacific salmon.

Response: NMFS believes that each of these comments has merit. A variety of factors (temporal variation, non-random sampling, etc.) might lead to small genetic (or phenotypic) differences between samples, and care must be used in inferring reproductive isolation from such data. The caveats about wandering and straying mirror those in the Technical Memorandum, and NMFS also recognizes that adjacent populations of anadromous salmonids can sometimes be strongly isolated reproductively. The diversity of comments on this topic illustrates the importance of evaluating each case individually, giving consideration to all available types of scientific information and recognizing the strengths and limitations of each.

Comment: Two respondents pointed out that the exchange of some genetic material (e.g., mitochondrial DNA) between populations or species can occur at a different (often faster) rate than the exchange of nuclear genes, and if this happens, the question of reproductive isolation can be quite complicated.

Response: The respondents are correct to point out this possibility. In the event that different types of genetic analyses lead to different conclusions regarding reproductive isolation, NMFS recommends that all other available lines of evidence be utilized to help clarify the situation.

Comment: One respondent believed that the discussion of recolonization rates in the Technical Memorandum

was overly simplistic, stating that simple replacement of individuals of the same species does not necessarily imply equivalence; the new population might consist of animals less well adapted to the habitat. Another respondent questioned the statement in the Technical Memorandum that, "Presumably, an area that would be repopulated at or near the previous abundance level in a short time would be unlikely to harbor an ESU." The respondent argued that an introduced population might actually do better than the native population, but this does not necessarily mean that the indigenous population is not uniquely suited to its environment.

Response: The passage cited from the Technical Memorandum was meant to refer to natural recolonization, not introductions of exogenous populations. The text in the revised supporting paper has been changed to make this clear. NMFS agrees that replacement does not necessarily imply equivalence; the point here is that if natural replacement is rapid, whether with equivalent individuals or not, one must question whether the population was isolated in the first place. Caveats noted in the Technical Memorandum and by the respondents against drawing casual conclusions from such data will be given appropriate consideration.

Ecological/Genetic Diversity Criterion

Comment: One respondent asked NMFS to clarify whether an affirmative answer to any of the four rhetorical questions relating to the ecological/genetic diversity criterion should be considered strong evidence that the population is an ESU. Another asked whether the fourth of these questions, "If the population became extinct, would this event represent a significant loss to the ecological/genetic diversity of the species?" should be considered from the point of view of the fish species or mankind.

Response: The question of "significant loss" is to be interpreted with respect to the biological species. This question is really at the heart of the "evolutionary significance" concept, and a clear, affirmative answer to this question is a very strong indication that the population in question is an ESU. The other three questions are more specific and address topics that are important to consider (but are not necessarily conclusive) in evaluating evolutionary significance; each of these three questions should be viewed as one part of a larger inquiry. The policy has been clarified to reflect this.

Comment: A variety of views was expressed on the relative importance to attach to different types of data in determining whether populations meet the "ecological/genetic diversity" criterion. Several respondents believed that the interim policy does not provide enough guidance, whereas others emphasized that the most relevant type of information will differ from case to case, and evaluating distinctness will require expert judgment based on all available data. One respondent argued that the different types of data can be ranked as follows: "direct evidence of adaptive differences is most important, followed by evidence of unique alleles (one of two or more forms of a particular gene), large differences in allele frequencies, and lastly perceived differences in selective pressures."

Two respondents believe that the interim policy placed too much emphasis on genetic characteristics, and three believed that genetic traits should be accorded more importance. Two respondents argued that phenotypic or life history traits should weigh heavily in favor of finding a population to be distinct; two others argued that such characteristics are inherently unreliable because of the potential for strong environmental influence. One respondent commented that although analysis of morphological characteristics is complicated by environmental and size effects, these characteristics might be relatively more useful for groups of vertebrates with determinate growth (e.g., birds and mammals). Several respondents expressed the view that more work is necessary to sort out the genetic and environmental effects on phenotypic characteristics. One respondent argued that habitat characteristics should be "heavily weighted in favor of finding a population to be distinct;" another believed that, because of uncertainty about the selective importance of habitat differences, such data "are less useful than other information that can be collected."

Response: NMFS agrees that the task of sorting out genetic and environmental effects on phenotypic characteristics is a difficult but important one. Although caution must be used in interpreting data for such characteristics, they should not be dismissed out of hand. There is a strong evidence for a genetic basis for some phenotypic and life history characteristics in some Pacific salmon populations. NMFS continues to recommend that judgments regarding evolutionary significance be made based on all available scientific information, weighted as deemed most appropriate for the particular case.

A major concern regarding unique alleles (those found in only one population or one geographic region) is sampling error; that is, the failure to find the alleles in other localities may be due to inadequate sampling. Nevertheless, alleles that have been found in only one area and occur there at moderate or high frequency suggest a substantial degree of reproductive isolation. The same inference may be drawn from the occurrence of a number of unique alleles at low frequency. Further, although unique alleles do not necessarily reflect adaptation, they may, if numerous or at high frequency, provide an indication of likely adaptive differences elsewhere in the genome (see also next response).

Comment: Two respondents cautioned against automatically assuming that all electrophoretically detectable variation is selectively neutral. One also argued that such variation is evolutionarily important in the sense that it provides the raw material upon which selection may act in the future. Another respondent argued that because electrophoretically detectable variation is largely neutral, it provides little information relative to the question of evolutionary significance beyond the insights it may provide regarding reproductive isolation.

Response: NMFS agrees with the respondents that there is persuasive evidence in a number of organisms for adaptive variation at some gene loci detected by protein electrophoresis. The key questions are: (1) How much of the electrophoretically-detectable variation is neutral, and (2) How much is influenced by natural selection? This issue has been debated by evolutionary biologists for over 2 decades, without a complete resolution of opposing views. Nevertheless, the majority opinion seems to be that most such variation is effectively neutral. That is, if selection is occurring, it is weak enough that the behavior of genotype and allele frequencies is dominated by random genetic drift. This does not rule out strong selection at some electrophoretically detectable gene loci, and this possibility should always be kept in mind in evaluating such data.

NMFS also agrees that, even if essentially neutral at present, genetic variation at protein-coding loci provides a reservoir of raw material upon which natural selection may act at some future time. Thus, such variation may play an important role in evolution. The Technical Memorandum stressed that the bulk of evidence for adaptive differences must come from sources other than protein electrophoresis. However, the magnitude of presumably neutral differences can also provided insight into the likelihood that adaptive

differences are present at other parts of the genome, and in this respect such data can be useful in drawing inferences about evolutionary significance.

Comment: One respondent agreed with the statement in the interim policy that "failure to find (genetic) differences (or the absence of genetic data) would * * * place a greater burden of proof on data for other characters." Another disagreed, arguing that this would shift emphasis to the most subjective characteristics, and therefore the inability to detect genetic differences might be used to exclude populations from ESA consideration. Three other respondents expressed the view that the lack of demonstrable genetic differences should not weigh heavily against finding a population distinct. One of these asked that NMFS affirm that the absence of genetic data "would not preclude consideration of that population as an ESU."

Response: There are really two separate, albeit related, issues here: (1) How to proceed in the absence of any direct genetic information? and (2) How to proceed if there are some genetic data, but they fail to show significant differences between populations? Regarding the first question, NMFS recognizes that the majority of "species" determinations under the ESA have been made without the aid of any direct genetic evidence. Data from protein electrophoresis or DNA analyses can be very useful in determining population "distinctness," but they are not essential. NMFS believes that, to be considered an ESU, a population must be genetically distinct from other conspecific populations—because population characteristics that are evolutionarily significant must have a genetic basis. This does not mean, however, that the genetic differences must be (or can be, in every case) detected by any particular analytical technique. Thus, NMFS agrees that a lack of direct genetic information does not preclude consideration of a population as an ESU. However if no direct genetic information is available, evidence to support an ESU must be found elsewhere, which inescapably places a greater burden of proof on other characteristics.

Rather than a complete absence of genetic information, the second issue involves how to proceed if available genetic data do not provide evidence for population distinctness. Caution is required in drawing a conclusion of "no difference" on the basis of such data, as there are numerous examples in the scientific literature of well-differentiated populations or species that cannot be reliably distinguished using available genetic techniques, as well as cases in which further analysis has shown previously in distinguishable populations to be genetically different. Again, NMFS agrees that a finding of "no significant difference" on the basis of protein electrophoresis or DNA analysis does not rule out consideration of a population as an ESU. On the other hand, the possibility must also be considered that the available data accurately reflect a lack of overall genetic differences between populations. This hypothesis should be evaluated in terms of the comprehensiveness of the genetic analyses and the observed pattern of genetic variation in the species. Studies that have used large samples and a large number of genetic markers without revealing population differences place a clear burden of proof on other characteristics to satisfy the two criteria for an ESU.

Comment: Several respondents questioned the focus on the past implied by the term "evolutionary legacy." Two of these argued that recent isolates (including those populations isolated as the result of human activities) should be considered "species" under the ESA because every such isolate holds the potential to become evolutionarily important to the species (possibly even become a new species) at some point in the future. Another respondent argued that some populations that have been evolutionarily important to the species in the past may be "dead ends" in terms of future evolutionary potential.

Response: NMFS believes that considering recently isolated stocks to be ESUs simply on the basis of their isolation is not appropriate. The loss of such isolates, whether resulting naturally or from human activities, would generally not represent an irreversible loss of diversity to the species because presumably most of the genetic diversity contained in the isolates would still reside in the parent population. The isolate might eventually become an ESU if the isolation were to persist for a long enough period of time. If, however, fragmentation into isolated segments poses a threat to a larger population unit as a whole, the entire unit may be considered for protection, as discussed under "Groups of Populations" below.

The term "evolutionary legacy" was not meant to be construed only in a historical sense. Rather, the term is used in the sense of "inheritance"—that is, something received from the past and carried forward into the future. This reflects the concern expressed in the ESA "to better safeguarding * * * the Nation's heritage in fish, wildlife, and plants." (ESA section 2(a)(5)). Specifically, the evolutionary legacy of a species is the genetic variability that is a product of past evolutionary events and that represents the reservoir upon which future evolutionary potential depends. In evaluating vertebrate populations, NMFS cannot predict which ones will play major evolutionary roles in the future. Rather, NMFS believes that efforts should focus on conserving genetic resources of species (their "evolutionary legacy") so that the dynamic process of evolution will not be unduly constrained in the future.

Anadromy/Nonanadromy

Comment: One respondent argued that for an anadromous/nonanadromous unit to be considered an ESU, it is not necessary to show both (1) that there is a genetic basis for the anadromy and (2) that the anadromous component makes the population distinct; demonstration of either should be sufficient. Another respondent expressed the fear that under the interim policy, the anadromous portion of a population could become extinct without triggering any ESA protection. A third respondent believed that the key question is, "What is the likelihood of the nonanadromous form giving rise to the anadromous form after the latter has gone locally extinct."

Response: NMFS believes that anadromous and nonanadromous traits should be considered in the same way as other traits in determining whether a population is an ESU. Traits that contribute to evolutionary significance must have a genetic basis, but not all genetically-based traits will make a population an ESU. It is also necessary to ask whether loss of the trait would compromise the distinctiveness of the population. Thus, both conditions must be met. NMFS agrees that the question posed by the third respondent is relevant to the key issue—does the anadromous trait make the population distinct?

Differences in Run-Time

Comment: One respondent argued that differences in run-timing are sufficient to establish ecological/genetic diversity between reproductively isolated populations. Another respondent argued that run-timing distinctions "should be taken into account from a purely biological perspective" and should not be a factor in evaluating distinctiveness unless a link can be shown between run-time differences and the overall health of the biological species.

Response: Run-time differences can provide information relevant to each of the two criteria for an ESU. Timing differences that contribute to reproductive isolation are relevant to the first criterion, and timing differences that also contribute substantially to ecological/genetic diversity are relevant to the second criterion. In both cases, it is first important to establish that the timing differences have an inherent biological basis and are not largely artifacts of past or present management practices. NMFS believes that run-timing differences should be considered in the same fashion as other characteristics in evaluating the two criteria. A demonstration of timing differences does not automatically lead to a firm conclusion regarding either criterion; rather, such information should be considered together with all other available data. Note that it is possible for run-timing differences to be sufficient to establish reproductive isolation between population segments that do not differ enough ecologically/genetically to be considered separate ESUs.

Effects of Supplementation

Comment: One respondent agreed with the statement in the interim policy that evidence merely of the release of exogenous fish is not sufficient to disqualify a population from consideration as an ESU; the important question is whether the introduced fish have successively reproduced and contributed to later generations. The respondent believed, however, that in cases where successful mixing can be documented, it is better simply to apply the two-criteria test for an ESU than to ask (as suggested in the Technical Memorandum) whether stock mixing has compromised evolutionarily important adaptations in the indigenous population.

Response: NMFS agrees with the respondent that meeting the two criteria is the real test of whether a population affected by artificial propagation is an ESU. In making this evaluation, however, it may be useful to consider whether the population was likely to have been an ESU in the past and ask whether stock mixing has compromised the evolutionarily important adaptations that distinguished the original population.

Historic Population Size

Comment: One respondent stated that, with respect to historic population size, the interim policy considers only genetic factors as a cause of extinction. The respondent further stated that the question of historic population size should be considered "only if more direct methods of evaluating the evolutionary importance of a population are inconclusive." Another respondent questioned whether NMFS is likely to be in the position of artificially maintaining units that might naturally undergo periodic episodes of extinction/recolonization, given that ESA protection presumably would extend only to manmade (and not environmental) disturbances.

Response: The Technical Memorandum noted that demographic and evironmental variability poses risks for small populations, and concluded that "such fluctuations may place greater constraints on the long-term survival of small populations than do genetic factors associated with inbreeding." NMFS agrees with the respondent that theoretical considerations about the likely persistence time of small populations should not be used to dismiss strong evidence for long-term reproductive isolation. Historic population size is only one consideration in determining whether a population is an ESU.

It is not likely that NMFS will be artificially maintaining populations that would naturally go extinct because such small populations are unlikely to be considered ESUs, although a collection of them might be. Absent other compelling information, a Pacific salmon population will not be considered an ESU if the historic size is too small to assume that the population has remained isolated over an evolutionarily important time period. Evaluating the historic population size is useful in focusing attention on populations with the greatest probability of representing ESUs. NMFS notes, however, that the ESA allows a "species" to be listed based on natural or manmade threats to its continued existence.

Groups of Populations

Comment: One respondent believed that the topic of groups of populations is very important and should be addressed more thoroughly. One respondent believed that the statement in the Technical Memorandum, "In general * * * ESUs should correspond to more comprehensive units unless there is clear evidence that evolutionarily important differences exist between smaller population segments," is an inappropriate reversal in the burden of proof from the intent of Congress. Another respondent commented that:

> a trade-off must be resolved between the evolutionary significance of that level of population structure and the stability of individual units * * * Groups of spawning aggregations which experience highly reduced gene flow between groups, relative to gene flow within groups, should be considered evolutionary units under the ESA process.

Response: As anadromous species, Pacific salmon spawn in a freshwater environment that is often naturally organized in a hierarchical fashion—major river systems may contain several large tributaries, each with numerous streams fed by smaller creeks, etc. Other areas may be characterized by numerous smaller streams, each entering directly into a tidewater area. In both cases, geographical, environmental, or other factors may naturally lead to genetic structuring of the various spawning aggregations into more or less discrete units. NMFS agrees with the last respondent that the first step in determining the appropriate hierarchical level for consideration as an ESU is to identify units within which levels of gene flow are high relative to the rate of exchange between neighboring units. Often, however, there will be more than one hierarchical level for which this is true. Therefore, it is also important to identify such reproductively isolated units that contribute substantially to the ecological/genetic diversity of the species as a whole.

The statement about "more comprehensive units" was not intended to diminish the level of protection afforded to distinct populations. Rather, it reflects (1) the view that population "distinctness" should be supported by positive scientific evidence, and (2) the concern that fragmenting groups of populations into multiple ESUs on the basis of insufficient data may create artificial units without a biological basis.

Comment: Two respondents believed that the interim policy would not provide sufficient protection for ESUs fragmented by habitat degradation or loss. One of these respondents expressed particular concern for species "exhibiting clinal gradations of certain characters rather than discrete, separate units," arguing that the interim policy might allow destruction of an important component of the population (or its habitat) because it was not sufficiently discrete. Another respondent requested clarification on the linkage between the definition of "species" and the determination of thresholds for "threatened" and "endangered" status, arguing that "the threshold must ensure protection for such smaller populations in order to maintain the long-term viability of the overall ESU."

Response: NMFS believes that "distinctness" as it pertains to the ESA

is an evolutionary attribute of a population; therefore, recent human-influenced events resulting in fragmentation of habitat are unlikely to have created "distinct" populations. Similarly, there may be little biological basis for treating populations showing gradual transition along a geographic or environmental cline as multiple distinct populations.

This does not mean, however, that threats posed by habitat fragmentation should be neglected under the ESA. The underlying concern should be whether important genetic resources of the biological species are at risk because of the fragmentation. If so, then the appropriate action would be to protect the larger population as a whole, rather than the individual fragments. In this context, NMFS recognizes that thresholds for threatened and endangered status must be flexible enough to deal with threats to groups of populations (metapopulations) and clinal populations, as well as more discrete population units. Just as there is no simple formula for determining evolutionary significance, there is no universally applicable numerical threshold for a listing determination; in both types of evaluation, a variety of factors must be considered.

Statistical Considerations

Comment: Several respondents commented on statistical issues. One argued that the statement in the interim policy, "In general * * * the appropriate null hypothesis to test is that no differences exist between the populations being compared," leads to bias against a listing determination. Another cautioned against considering modest, but statistically significant, allele frequency differences as sufficient proof of evolutionarily important differences between populations. A third respondent pointed out that the interim policy does not stipulate a significance level (*e.g.*, the 5-percent or 1-percent level) that should be used for statistical tests.

Response: NMFS was careful in the Technical Memorandum to point out that statistical significance and evolutionary significance are different concepts. The above quotation regarding the "appropriate null hypothesis" referred to a test for statistical signficance. Adopting an initial hypothesis of "no difference" and testing for differences by attempting to reject this "null" hypothesis as implausible is the foundation of most statistical tests. NMFS acknowledges that formal hypothesis testing may play an important role in ESA considerations, but also recognizes that not all types of information relevant to the "species" determination are easily quantifiable in this way. Because of the lack of direct connection between statistical and evolutionary significance, and because different tests used on the same data may give different results, NMFS does not endorse (or recommend) any particular significance level for statistical tests. Instead of setting up an arbitrary cut-off for significance such that (for example) a test result at the $P=0.04$ level triggers a listing and one at the $P=0.06$ level does not, NMFS recommends that the approximate significance level of statistical tests be taken into consideration along with other factors in making the "species" determination. The question of minor but significant genetic differences is addressed above under "Reproductive isolation."

Policy Statement

A stock of Pacific salmon will be considered a distinct population, and hence a "species" under the ESA, if it represents an evolutionarily significant unit (ESU) of the biological species. A stock must satisfy two criteria to be considered an ESU:

(1) It must be substantially reproductively isolated from other conspecific population units; and

(2) It must represent an important component in the evolutionary legacy of the species.

The first criterion, reproductive isolation, does not have to be absolute, but it must be strong enough to permit evolutionarily important differences to accrue in different population units. Insights into the extent of reproductive isolation can be provided by movements of tagged fish, recolonization rates of other populations, measurements of genetic differences between populations, and evaluations of the efficacy of natural barriers. Each of these methods has its limitations. Identification of physical barriers to genetic exchange can help define the geographic extent of distinct populations, but reliance on physical features alone can be misleading in the absence of supporting biological information. Physical tags provide information about the movements of individual fish but not the genetic consequences of migration. Furthermore, measurements of current straying or recolonization rates provide no direct information about the magnitude or consistency of such rates in the past. In this respect, data from protein electrophoresis or DNA analysis can be very useful because they reflect levels of gene flow that have occurred over evolutionary time scales. NMFS will use all available lines of evidence for and against reproductive isolation, recognizing the limitations of each and taking advantage of the complementary nature of the different types of information.

To be considered an ESU, the population must also represent an important component in the evolutionary legacy of the species. The evolutionary legacy of a species is the genetic variability that is a product of past evolutionary events and which represents the reservoir upon which future evolutionary potential depends. This second criterion would be met if the population contributed substantially to the ecological/genetic diversity of the species as a whole. In other words, if the population became extinct, would this event represent a significant loss to the ecological/genetic diversity of the species? In making this determination, the following questions are relevant:

1. Is the population genetically distinct from other conspecific populations?

2. Does the population occupy unusual or distinctive habitat?

3. Does the population show evidence of unusual or distinctive adaptation to its environment?

Several types of information are useful in addressing these questions. Again, the strengths and limitations of the information will be considered in making the determination. Phenotypic/life-history traits such as size, fecundity, and age and time of spawning may reflect local adaptations of evolutionary importance, but interpretation of these traits is complicated by their sensitivity to environmental conditions. Data from protein electrophoresis or DNA analysis provide valuable insight into levels of overall genetic differentiation among populations but little direct information regarding the extent of adaptive genetic differences. Habitat differences suggest the possibility for local adaptations but do not prove that such adaptations exist.

NMFS will use the best scientific and commercial data available and will rely on the biological expertise of the agency and the scientific community in making "species" determinations under the ESA. A "species" determination must be supported by scientific evidence. However, the lack of direct genetic or any other type of information does not preclude consideration of a population as a "species" under the ESA if such a finding is supported by other information.

Dated: November 14, 1991.

William W. Fox, Jr.,

Assistant Administrator for Fisheries.

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DEPARTMENT OF COMMERCE
National Oceanic and Atmospheric Administration

50 CFR Part 222

[Docket No. 910379-1256]

RIN 0648-AD90

Endangered and Threatened Species; Endangered Status for Snake River Sockeye Salmon

AGENCY: National Marine Fisheries Service (NMFS), NOAA, Commerce.

ACTION: Final rule.

SUMMARY: NMFS has determined that the Snake River sockeye salmon (*Oncorhynchus nerka*) is a "species" under the Endangered Species Act of 1973, as amended, 16 U.S.C. 1531 *et seq.* (ESA) and should be listed as endangered. The Snake River sockeye salmon has declined to extremely low numbers. Current production is limited to Redfish Lake in the Salmon River Basin, Idaho. Hydropower development, water withdrawal and diversions, water storage, harvest, predation, and inadequate regulatory mechanisms are factors contributing to the species' decline and represent a continued threat to the Snake River sockeye salmon's existence.

In a separate rulemaking, the U.S. Fish and Wildlife Service (FWS), Department of the Interior, will add the Snake River sockeye salmon to the U.S. List of Endangered and Threatened Wildlife.

EFFECTIVE DATE: December 20, 1991.

FOR FURTHER INFORMATION CONTACT: Rob Jones, NMFS, Environmental and Technical Services Division, 911 NE 11th Avenue, room 620, Portland, OR 97232, telephone (503) 230-5429 or FTS 230-5429, or Patricia Montanio, NMFS, 1335 East-West Highway, Silver Spring, MD 20910, telephone (301) 427-2322.

SUPPLEMENTARY INFORMATION:

Background

NMFS initiated a status review of sockeye salmon (*Oncorhynchus nerka*) in the Salmon River, a tributary of the Snake River, on April 9, 1990 (55 FR 13181). NMFS also received a petition (April 2, 1990) from the Shoshone-Bannock Tribes of the Fort Hall Indian Reservation to list Snake River sockeye salmon as endangered under the ESA. NMFS published a notice on June 5, 1990 (55 FR 22942), that the petition presented substantial scientific information indicating that the listing may be warranted and requested information from the public.

NMFS prepared a technical paper "Status Review Report for Snake River Sockeye Salmon" (Waples *et al.* 1991) and published a proposed rule (April 5, 1991; 56 FR 14055) for listing Snake River sockeye salmon as an endangered species; comments were requested. This final rule is based on the status review and on comments received on the status review and proposed rule.

Summary of Comments

One hundred and eighty-three written comments were received on the proposed rule. NMFS considered all comments received, including oral testimony from public hearings on the proposal to list Snake River sockeye salmon. The vast majority of comments supported the proposal. Opposition to the proposed rule was primarily based on consideration of Snake River sockeye salmon as a "species" under the ESA. Many commenters provided information pertinent to research needs and recovery planning. Although this information will be very useful in the development of a recovery plan, it will not be addressed here. Information pertinent to the listing decision has been incorporated here. A summary of major comments relevant to the listing determination is presented below.

Life History and Distribution

Some commenters believed that adult returns in recent years to the Sawtooth weir at the Sawtooth hatchery on the Salmon River near Stanley, Idaho, were returning kokanee salmon outmigrants from Alturas Lake. NMFS believes that the natural production of sockeye salmon in Alturas Lake was eliminated when agricultural diversions prevented adult sockeye salmon from reaching the lake. Adults trapped at the Sawtooth weir may have been kokanee salmon returning to Alturas or Redfish Lakes, or sockeye strays from Redfish Lake.

Consideration of Sockeye Salmon as a Species

Some commenters stated that Snake River sockeye salmon are extinct and that the anadromous *O. nerka* returning to Redfish Lake are the same as Redfish Lake kokanee. Others believed that Snake River sockeye salmon were not an evolutionary significant unit (distinct population) and, therefore, do not warrant protection under the ESA. Still others believed that additional research is needed to answer this question.

NMFS has considered available scientific evidence and continues to conclude that the two forms of *O. nerka* in Redfish Lake were historically and are currently distinct. In an attempt to clarify the relationship between Redfish Lake sockeye and kokanee salmon, NMFS initiated genetic testing. Preliminary results show that outmigrants collected from Redfish Lake Creek in the spring of 1991 are clearly different from Redfish Lake kokanee salmon sampled in the fall of 1990 (Schiewe 1991).

Juvenile Snake River Sockeye Migration

Several commenters stated that insufficient flows are the primary factor affecting downstream migrant juvenile Snake River sockeye salmon. Other commenters disagreed. Some commenters also pointed out that there are factors other than flows affecting the migration and travel time of juvenile Snake River sockeye salmon. NMFS believes that available data show that flows, in conjunction with water velocity, are important to the expeditious migration of juvenile salmon through the existing river system to the ocean. NMFS recognizes that flows and other factors affect the migration rate of juvenile salmon and that all factors must be taken into account in developing a recovery plan.

Some commenters took issue with the NMFS citation of the Columbia Basin Fish and Wildlife Authority's (CBFWA) flow proposal. NMFS did not intend that the reference imply a specific flow level is required to meet a future recovery standard.

The proposed rule identified turbine mortality as an important factor affecting the survival of sockeye salmon. Some commenters stated that the proposed rule should not imply that all other routes of passage are preferable to turbines. NMFS has reviewed available information that indicates that turbine mortality is generally higher than mortality incurred in other routes of passage.

Some commenters stated that the use of Snake and Columbia River water for irrigation is not a major factor causing the decline of Snake River sockeye salmon. NMFS did not intend that the proposed rule establish priorities regarding causes of decline. Rather, the proposed rule identified factors responsible for the decline of Snake River sockeye salmon. The storage and agricultural use of water was identified as such a factor. The rule also identified other passage and flow-related problems resulting from the presence of lower Snake River and Columbia River dams.

Some commenters were critical of the ranges and estimates of specific mortality factors presented by NMFS. NMFS is aware that other estimates of mortality for factors encountered by juvenile and adult fish migrating through the mainstem Columbia and Lower Snake River dams exist, but believes

that it used the best available information.

Habitat

Some commenters stated that the effects of habitat destruction resulting from mining, logging, road building, and grazing were understated in the proposed rule. NMFS recognizes that these activities can result in degradation of water and aquatic habitat quality. However, NMFS did not find and was not presented with evidence that these activities have adversely affected the production of Snake River sockeye salmon.

Overutilization

Commenters expressed conflicting views as to whether the harvest of Snake River sockeye salmon in the Snake and Columbia Rivers was a primary factor contributing to their decline. NMFS recognizes, as stated in the proposed rule, that historic levels of harvest greatly reduced the number of Snake River sockeye salmon and acknowledges that directed commercial harvest of sockeye salmon in the Columbia River was suspended for 1991. Although no data exist on Snake River sockeye salmon harvest specifically, the harvest of sockeye salmon in the Columbia River may be a continuing factor contributing to this population's decline.

Disease and Predation

Comments were submitted indicating that several potential disease pathogens were not addressed in sufficient detail. NMFS acknowledges that infectious hematopoietic necrosis, bacterial kidney disease, whirling disease, *Trichophyra* sp., as well as many other pathogens, can infect sockeye salmon. These pathogens were considered in the proposed rule, but their effects on Snake River sockeye salmon remain undocumented.

One commenter was concerned that a 60-percent predation rate was too low for all early life stages of Redfish Lake sockeye. NMFS agrees that this is a valid concern and further investigation indicates that this percentage should pertain only to juvenile sockeye salmon rearing in lakes. Another commenter asked for clarification of which species of salmon were examined for marine mammal bites at Lower Granite Dam. NMFS notes that these were spring chinook.

Inadequate Regulatory Mechanisms

While some commenters agreed that existing regulatory measures have not been adequate to prevent the decline of Snake River sockeye salmon, many commenters also noted instances in which existing authorities were not adequately used by NMFS and other fishery agencies due to priorities on other species. Specific comments included the role of NMFS and other fishery agencies in agreements and programs such as the Lower Snake River Fish and Wildlife Compensation Plan (LSRCP), the Idaho Power Company settlement agreement, and the Mitchell Act, which fail to provide mitigation for Snake River sockeye salmon. The 1972 LSRCP was prepared jointly by NMFS, FWS, and fisheries agencies from Idaho, Washington, and Oregon. Artificial propagation of sockeye salmon was not considered at the time the LSRCP was developed due to problems in controlling the infectious hematopoietic necrosis virus. Appropriate technology to manage the virus had not yet been developed in 1972.

One commenter also suggested that the problem was not the inadequacy of the laws but that competing user groups have not resolved water-related issues. NMFS agrees that all comments relating to regulatory mechanisms are useful in that they provide a more thorough history of events, and identify agreements and programs previously accepted by NMFS that may need to be considered in the development of a recovery plan.

Some commenters stated that the Federal Energy Regulatory Commission (FERC) licensing process provides protection for fish resources, and that the FERC license conditions associated with the Hells Canyon Complex are adequate. NMFS notes that recommendations to FERC by fisheries agencies are not always included in FERC license conditions, and FERC licenses are granted for up to 50 years, resulting in a licensing process that may not ensure protection of fish resources.

Many commenters also referred to the inadequacy of the Water Budget and other measures under the Northwest Power Planning Council's Fish and Wildlife Program. Comments on the Water Budget included additional examples of problems with both its structure and implementation. Some, for example, strongly supported statements in the proposed rule regarding the Water Budget's inadequate quantity or operational constraints. Some commenters also said that the Water Budget has not been used for sockeye salmon and has instead been focused on peak migrations of hatchery chinook salmon and steelhead trout. NMFS notes that although there is substantial overlap in the migration timing of these species, it is true that implementation has not focused specifically on Snake River sockeye salmon. Another commenter believed that, based on Lower Granite Dam passage data, the April 15 to June 15 Water Budget period adequately covers the bulk of the sockeye migration period. NMFS believes that these comments did not consider that the amount of water available may be insufficient to provide for outmigrants during the full 60-day window. A commenter's analysis on the adequacy of a 60-day migration window also failed to account for the considerable distances that Snake River sockeye salmon migrate in-river, both before arriving at, and after leaving, Lower Granite Dam.

Some commented that the Snake River simply does not have enough water under present conditions to provide needed fish migration flows. These commenters stressed the need to consider changes in the operation of the mainstem Snake River reservoirs. One commenter suggested that the current Water Budget provides adequate flows "in most years." As evidence, the commenter cited the report, "The Migrational Characteristics of Chinook Salmon Emanating from the Snake River Basin" by Dr. Albert E. Giorgi, submitted to the Pacific Northwest Utilities Conference Committee (PNUCC), dated April 11, 1991. NMFS reviewed this report but found neither this specific conclusion nor the data to support it. It is also significant to note that the May 9, 1991, comments of the PNUCC, for whom the report was prepared, stated that "There is general agreement that some increased flows above the confluence with the Columbia would assist juvenile migration."

NMFS received comments that state regulatory mechanisms that do not manage harvest to protect Snake River sockeye salmon, do not require irrigation diversions to be screened, and effectively favor consumptive use of water over in-stream use for fish, were more of a cause of the Snake River sockeye's decline than indicated in the proposed rule. As summarized in this final rule, the result of both state and Federal regulatory and enforcement mechanisms has been the failure to protect the Snake River sockeye salmon. At this time, NMFS has not determined which factors contributed most significantly to the species' decline.

Other Factors

Manmade Factors—Artificial Propagation. One commenter questioned whether there was indirect evidence that artificial propagation had compromised the genetic integrity of Stanley Basin sockeye salmon. NMFS

notes that sporadic releases of exotic *O. nerka* stocks have been recorded in the Stanley Basin Lakes since 1921. Electrophoretic analysis of the existing Stanley Basin populations and the most likely donor stocks for these exotic releases are included in the Snake River sockeye salmon Administrative Record. This information was used by NMFS in the "proposed rule to list" and no new information was presented to alter the agency's conclusions.

Other Manmade Factors. Some commenters pointed out that the proposed rule ignored the poisoning of certain Stanley Basin lakes and the erection of migration barriers to adult sockeye salmon to promote recreational trout fishing. These actions were alleged to have caused a significant decline in Snake River sockeye salmon. NMFS believes that the construction of migration barriers reduced the available habitat for Snake River sockeye salmon and has added this to the final rule.

Available Conservation Measures

Some commenters were concerned that the benefits of juvenile fish transportation are uncertain, and that it may actually reduce returns to spawning areas. In addition, one commenter cited 1984–86 studies of sockeye salmon transport from Priest Rapids and Wanapum dams to below Bonneville Dam as evidence that transported sockeye returned at lower rates than control fish released at Priest Rapids and Wanapum dams. As stated in the proposed listing, NMFS believes these studies were inconclusive. Other commenters were concerned that NMFS did not adequately consider the benefits of juvenile fish transportation. They felt that much of the information on the in-river losses of juvenile fish during migration was irrelevant because nearly all Snake River sockeye salmon are collected and transported. NMFS agrees that the uncertainty of transport benefits will need to be addressed. Whether it is as a result of, or in spite of, the existing juvenile fish transportation program, the fact remains that the Snake River sockeye salmon population has continued to decline.

Several commenters were concerned that critical habitat has not been designated. NMFS is not designating critical habitat concurrently with this listing because NMFS does not want to delay this listing decision while the required analyses for designating critical habitat are completed. NMFS intends to propose critical habitat in a separate rulemaking.

Consideration of Snake River Sockeye Salmon as a "Species" Under the ESA

To consider the Snake River sockeye salmon for listing, it must qualify as a "species" under the ESA. The ESA defines a "species" to include any "distinct population segment of any species of vertebrate * * * which interbreeds when mature." Concurrent with this final determination on sockeye, NMFS is publishing its final policy on how it will apply the ESA "species" definition in evaluating Pacific salmon (see "Notice of Policy on Applying the Definition of Species Under the Endangered Species Act to Pacific Salmon" in this issue of the **Federal Register**. A salmon population will be considered a distinct population, and hence a species under the ESA, if it represents an evolutionarily significant unit (ESU) of the biological species. The population must satisfy two criteria to be considered an ESU: (1) It must be substantially reproductively isolated from other conspecific population units; and (2) it must represent an important component in the evolutionary legacy of the biological species. Further guidance on application of this policy is contained in the NMFS paper "Pacific Salmon and the Definition of Species under the Endangered Species Act" (Waples In press).

In this case, the question of population distinctness is complicated by the presence of kokanee salmon in Redfish Lake. One hypothesis is that the sockeye and kokanee salmon share a common gene pool. If so, they should be considered as a unit in ESA evaluations. If the two forms are reproductively isolated, they should be considered separately.

Adult salmon returning to Redfish Lake were not available for comparison (genetic analyses) with spawning kokanee sampled from Fishhook Creek, an inlet stream to Redfish Lake in 1990. However, other evidence suggests that the two forms are distinct (Waples *et al.* 1991). Recent studies of *O. nerka* in other areas of the Pacific Northwest (Foote *et al.* 1989) found substantial genetic differences between the two forms, in spite of occasional cross-spawning behavior and viability of hybrids through early life-history stages in culture. Foote *et al.* (1989) found significant differences in the frequencies of alleles between sockeye and kokanee salmon in each of the lake systems they studied, and also found that the magnitude of genetic divergence between sympatric sockeye and kokanee salmon increased with distance upriver from the ocean. A recent electrophoretic survey conducted by NMFS also found substantial genetic differences between sockeye and kokanee salmon in two river/lake systems where they co-occur (Monan 1991). Thus, it is likely that, historically, sockeye and kokanee salmon were reproductively isolated in Redfish Lake. This premise is supported by recent evidence that outmigrants from Redfish Lake in 1991 were genetically distinct from Redfish Lake kokanee sampled last year (Schiewe 1991). Further evidence of reproductive isolation is that kokanee continue to spawn in an inlet stream (Fishhook Creek) in August/September, but sockeye salmon spawn later (generally October) and only along shoals in the lake (Bjornn *et al.* 1968; Fulton 1970; Bowler 1990).

An alternative hypothesis, that Sunbeam Dam caused the extinction of the original sockeye salmon gene pool and that recent anadromous *O. nerka* in Redfish Lake have resulted from the seaward drift of kokanee, was also considered (see discussion under "Status of Snake River Sockeye Salmon" below). Although it is known from studies in other geographical areas that kokanee can occasionally produce anadromous fish, the number of outmigrants that successfully return as adults is typically quite low. Furthermore, investigations of kokanee elsewhere have not included migration requirements, passage obstacles, or habitat limitations similar to those experienced by anadromous fish returning to the Snake River system. Thus, if kokanee were responsible for post-Sunbeam Dam anadromous *O. nerka* in Redfish Lake, it would be an unprecedented occurrence for the species (Waples *et al.* 1991).

Considering evidence that sockeye salmon continued to pass Sunbeam Dam prior to its removal, available genetic information, and given the uncertainty regarding the ability of Redfish Lake kokanee to produce anadromous *O. nerka* in the numbers observed, NMFS is proceeding on the premise that the original sockeye salmon gene pool still exits in Redfish Lake and is distinct from the kokanee (Waples *et al.* 1991).

Available information indicates that Snake River sockeye salmon are also reproductively isolated from other sockeye salmon populations and represent an important component in the evolutionarily legacy of the species. The great distance (over 700 river miles (1,127 kilometers)) separating Redfish Lake from the nearest sockeye salmon populations in the upper Columbia River ensures a strong degree of reproductive isolation. There is no evidence of straying of sockeye salmon from the

upper Columbia River or elsewhere into Redfish Lake (Waples *et al.* 1991).

Redfish Lake supports the world's southernmost natural sockeye salmon population. Sockeye salmon returning to Redfish Lake also travel a greater distance from the sea (almost 900 miles (1,448 kilometers)) and to a higher elevation (6,500 feet (1,219 meters)) than do sockeye salmon anywhere else in the world. In contrast, sockeye salmon in the upper Columbia Basin spawn at elevations more than 4,000 feet (1,219 meters) lower. Furthermore, the upper Columbia River populations are in a different ecoregion domain (humid temperate) than is Redfish Lake (dry) (Waples *et al.* 1991). Collectively, these data argue strongly for the ecological uniqueness (with respect to sockeye salmon) of the Snake River habitat and make it likely that the Redfish Lake population contains unique adaptive genetic characteristics.

Electrophoretic studies of sockeye salmon throughout North America and Asia typically have found substantial genetic differences between sockeye salmon stocks from different river systems (e.g., Utter *et al.* 1984; Foote *et al.* 1989; Monan 1991). Furthermore, a recent study (Monan 1991) demonstrated that samples of kokanee from Redfish and Alturas Lakes are genetically similar to each other but quite distinct from samples from other lakes in Idaho, Washington, and British Columbia. Although specific data are not available for Redfish Lake sockeye salmon, these results suggest that this population is probably genetically distinct from other sockeye salmon populations.

NMFS concludes that the best available information indicates that this population meets both of the criteria necessary to be considered an ESU. Therefore, NMFS has determined that the Snake River sockeye salmon is a "species" under the ESA.

Status of the Snake River Sockeye Salmon

Historically, sockeye salmon were produced in Idaho in the Stanley Basin of the Salmon River in Alturas, Pettit, Redfish, Yellowbelly and Stanley Lakes and may have been present in one or two other Stanley Basin lakes (Bjornn *et al.* 1968). Welsh *et al.* (1965) also included Little Redfish Lake, on Redfish Creek downstream from Redfish Lake, as sockeye salmon habitat. Outside of the Salmon River Basin, but within the Snake River Basin, sockeye salmon were produced in Big Payette Lake on the North Fork Payette River and in Wallowa Lake on the Wallowa River (Evermann 1895; Toner 1960; Bjornn *et al.* 1968; Fulton 1970).

In 1881, 2,600 pounds (1,180 kilograms) of fresh sockeye salmon were taken by prospectors at Alturas Lake, near Redfish Lake in the Stanley Basin (Evermann 1896). Agricultural diversions of water from Alturas Lake Creek currently prevent adult sockeye salmon from migrating upstream, precluding production in Alturas Lake. Treatment with piscicides (chemicals used to kill fish) in 1961 and 1962 and the construction of migration barriers to prevent the immigration of warmwater fish species precluded sockeye salmon production in Pettit, Stanley and Yellowbelly Lakes.

There is no reliable information on the numbers of sockeye salmon spawning in Redfish Lake in the early 1900s (Bjornn *et al.* 1968). However, Evermann (1895, 1896) reported that there were plans to build a cannery there.

Construction a Sunbeam Dam in 1910, 20 miles (32.2 kilometers) downstream from Redfish Lake Creek on the mainstream Salmon River, seriously impeded sockeye salmon access to the Stanley Basin lakes. The original adult fishway was constructed with wood and was ineffective in passing fish over the dam (Kendall 1912; Gowen 1914). It was replaced in 1920 with a concrete adult fishway that successfully passed sockeye salmon during at least 1 year.

There is a difference of opinion regarding the effects of Sunbeam Dam on the original sockeye salmon run to lakes in the Stanley Basin. Some argue that the dam represented a complete barrier to upstream passage for enough years that the original anadromous run was eliminated (Chapman *et al.* 1990). On the other hand, eyewitness accounts (Jones 1991) document adult sockeye salmon spawning in Redfish Lake in a number of years prior to and immediately after partial removal of the dam in 1934. Subsequently, Parkhurst (1950) reported sockeye salmon spawning in the lake in 1942.

Escapement of sockeye salmon to the Snake River has declined dramatically in recent years. Counts made at Lower Granite Dam (the first dam on the Snake River downstream from the confluence of the Salmon River) have ranged from 531 in 1976 to zero in 1990. It should be noted that the number of fish counted at a dam may differ from the number actually passing; some fish may pass during non-counting periods or may pass through navigation locks. Records are available on escapement into Redfish Lake for the years 1954 through 1966 and from 1985 through 1987. During these years, the Idaho Department of Fish and Game (IDFG) enumerated adult sockeye salmon at a weir in Redfish Lake Creek. In the years from 1954 through 1966, the number of adults counted by IDFG varied from 4,361 and 1955, to 11 in 1961, to 335 in 1964. In the years 1985 through 1987, IDFG operated a temporary weir in Redfish Lake Creek. The total escapement in these years was 12 in 1985, 29 in 1986, and 16 in 1987. In 1988, IDFG also conducted spawning-ground surveys in Redfish Lake and identified four adults and two redds (gravel mounds in which the eggs are deposited). In 1989, observations in Redfish Lake included one adult sockeye, one redd and a second potential redd. No redds or adults were observed in 1990.

During the spring of 1991, a fraction of the juvenile *O. nerka* outmigrants from Redfish and Alturas Lakes were collected and transported to Eagle Hatchery, Eagle, Idaho, to provide a potential source of broodstock for future sockeye production. Four adults (three males and one female) returned to Redfish Lake in 1991 and were captured and held in special facilities at Sawtooth Hatchery near Redfish Lake. These fish were successfully spawned and the resulting progeny will be used to maximize sockeye production.

Summary of Factors Affecting the Species

The ESA requires a determination of whether a species is threatened or endangered because of any of the five factors identified in section 4(a)(1). This determination is based on the "Summary of Factors Affecting the Species" section in the proposed rule and on comments received on the proposed rule. A brief description of these factors follows.

A. The Present or Threatened Destruction, Modification, or Curtailment of Its Habitat or Range

Hydropower development has resulted in blockage of habitat, turbine-related mortality of juvenile fish, increased delay of juvenile migration through the Snake and Columbia Rivers, increased predation on juvenile salmon due to residualism in reservoirs and increased predator populations due to ideal foraging areas created by impoundments, and increased delay of adults on their way to spawning grounds. Water withdrawal and storage and irrigation diversions and blockage of habitat for purposes such as agriculture have also contributed to the destruction of Snake River sockeye salmon habitat.

B. Overutilization for Commercial, Recreational, Scientific, or Educational Purposes

Data specific to the exploitation of Snake River sockeye salmon are limited, but available information indicates that commercial fisheries in the lower Columbia River, and harvest on the spawning grounds, were primary factors in the decline of Snake River sockeye salmon (Fulton 1970).

The recreational harvest of sockeye salmon in the Columbia River is negligible (Washington Dept. of Fisheries and Oregon Dept. of Fish and Wildlife 1990). There is no information available to indicate that ocean harvest of Columbia River (including Snake River) sockeye salmon is significant.

C. Disease or Predation

Sockeye salmon are exposed to numerous bacterial, protozoan, viral, and parasitic organisms in spawning and rearing areas, migratory routes, and the marine environment. Even though *O. nerka* is susceptible to these, their effect on Snake River sockeye salmon is not documented.

Predators, particularly northern squawfish, *Ptychocheilus oregonensis*, and avian predator populations have increased due to hydroelectric development that created impoundments providing ideal foraging areas. Turbulent conditions in turbines, dam bypasses, and spillways have increased predator success by stunning or disorienting passing juvenile salmon migrants.

Marine mammal numbers, especially harbor seals and California sea lions, are increasing on the West Coast and increases in predation by pinnipeds have been noted in all Northwest salmonid fisheries. However, the extent to which predation is a factor causing the decline of Snake River sockeye salmon is unknown.

D. Inadequacy of Existing Regulatory Mechanisms

A wide variety of Federal and state laws and programs have affected the abundance and survival of anadromous fish populations in the Columbia River. These regulatory mechanisms have not prevented the decline of Snake River sockeye salmon.

E. Other Natural and Manmade Factors

1. Natural Factors. Drought is the principal natural condition that may have contributed to reduced Snake River sockeye salmon production. Annual mean streamflows for the 1977 water year were generally the lowest recorded for many streams since the late nineteenth century (Columbia River Water Management Group 1978). The 1990 water year became the fourth consecutive year of drought conditions in the Snake River Basin (Columbia River Water Management Group—in press).

2. Manmade Factors. There is no direct evidence that artificially propagated fish have compromised the genetic integrity of Stanley Basin sockeye salmon. Supplementation of kokanee salmon occurred sporadically, beginning early in this century. In most cases, the origin of the donor stocks is unknown (Bowler 1990). Preliminary electrophoretic analyses of 19 different sockeye and kokanee salmon samples from Idaho, Washington, and British Columbia (these include the most likely sources for donor stocks) indicated that Redfish and Alturas Lake kokanee populations are genetically different from the other populations sampled. Adult salmon returning to Redfish Lake were unavailable for sampling. Artificial production of other species may have an adverse impact on Snake River sockeye salmon as they jointly migrate through the rivers, estuary and ocean, and may compete with sockeye salmon for food.

Determination

Based on its assessment of available scientific and commercial information, NMFS is issuing a final determination that the Snake River sockeye salmon (*Oncorhynchus nerka*) is a "species" under the ESA and should be listed as endangered under the ESA.

Conservation Measures

Conservation measures provided to species listed as endangered or threatened under the ESA include recognition, prohibitions on taking, recovery actions, and Federal agency consultation requirements. Recognition through listing promotes conservation actions by Federal and state agencies and private groups and individuals.

For listed species, section 7(a)(2) requires Federal agencies to ensure that activities they authorize, fund, or conduct are not likely to jeopardize the continued existence of a listed species or to destroy or adversely modify its critical habitat. If a Federal action may adversely affect a listed species or its critical habitat, the responsible Federal agency must enter into formal consultation with NMFS.

Examples of Federal actions most likely to affect Snake River sockeye salmon include authorized purposes of mainstem Columbia and Snake Rivers hydroelectric and storage projects. Such authorized purposes include hydroelectric power generation, flood control, irrigation, and navigation. Federal actions including COE section 404 permitting activities under the Clean Water Act, COE section 10 permitting activities under the Rivers and Harbors Act, and FERC licenses for non-Federal development and operation of hydropower may also be affected.

Critical Habitat

NMFS has completed its analysis of the biological status of sockeye salmon in the Snake River but has not completed the analysis necessary for the designation of critical habitat. NMFS has decided to proceed with the final listing determination now and to proceed with the designation of critical habitat in separate rulemaking. NMFS believes that this action is consistent with the intent of the 1982 amendments to the ESA: "The Committee feels strongly, however, that, where the biology relating to the status of the species is clear, it should not be denied the protection of the Act because of the inability of the Secretary to complete the work necessary to designate critical habitat." H. Rep. No. 567, 97th Cong., 2d Sess. 19 (1982).

NMFS has determined that final listing is appropriate and necessary to the conservation of Snake River sockeye salmon. The prompt listing will bring the protections of the ESA into force, including the requirement that all Federal agencies consult with NMFS to ensure their actions are not likely to jeopardize the continued existence of the species. Prompt listing will assure that Federal agencies whose activities may affect the species will consult with NMFS under section 7(a)(2) of the ESA during their planning for 1992 operations and activities. For example, the Corps of Engineers is currently analyzing potential options for 1992 to improve river flows for salmon and the Bonneville Power Administration is preparing a review of Columbia and Snake River hydropower operation. Listing now will thus promote timely and effective consideration of measures to conserve Snake River sockeye salmon.

Furthermore, NMFS has concluded that critical habitat is not determinable at this time because information sufficient to perform the required analysis of the impacts of the designation is lacking. Designation of critical habitat requires a determination of those physical and biological features that are essential to the conservation of the species and which may require special management considerations or protection. NMFS has been reviewing scientific and biological information

concerning the habitat requirements of Snake River sockeye salmon and has been identifying activities that may adversely impact the habitat. This will take additional time because many Federal and State agencies are involved in the management of fish and wildlife habitat in the Columbia River system. Further, management considerations and protection for sockeye salmon are complicated by the possibility that these measures, if developed in isolation, may not be appropriate for other Snake River salmon species. Thus, NMFS is planning to propose concurrently critical habitat determinations for all petitioned Snake River salmon stocks. In addition, designation of critical habitat requires the consideration of economic information. NMFS is in the process of gathering and analyzing the economic information needed for the designation (see notices requesting information on critical habitat published in the Federal Register on October 15, 1991; 56 FR 51684).

Classification

The 1982 amendments to the ESA (Pub. L. 97–304) in section 4(b)(1)(A), restricted the formation that may be considered when assessing species for listing. Based on this limitation of criteria for a listing decision and the opinion in *Pacific Legal Foundation* v. *Andrus*, 657 F.2d 829 (6th Cir., 1981), NMFS has categorically excluded all endangered species listings from environmental assessment requirements of the National Environmental Policy Act (48 FR 4413, February 6, 1984).

The Conference Report on the 1982 amendments to the ESA notes that economic considerations have no relevance to determinations regarding the status of species, and that E.O. 12291 economic analysis requirements, the Regulatory Flexibility Act, and the Paperwork Reduction Act are not applicable to the listing process. Similarly, listing actions are not subject to the requirements of E.O. 12612.

References

The complete citations for the references used in this document can be found in the Proposed Endangered Status for Snake River Sockeye Salmon (56 FR 14055; April 5, 1991) or one of the following:

Schiewe, M.H. 1991. Genetic Studies of Redfish Lake Outmigrants *Oncorhynchus nerka*. Memorandum to Rolland Schmitten and Richard Berry dated July 19, 1991.

Waples, R.S. In press. Pacific Salmon and the definition of "Species" under the Endangered Species Act. Marine Fisheries Review.

Waples, R.S., O.W. Johnson, and R.P. Jones, Jr. 1991. Status Review Report for Snake River Sockeye Salmon. U.S. Dep. Commer., NOAA Tech. Memo. NMFS F/NWC–195.

List of Subjects in 50 CFR Part 222

Administrative practice and procedure, Endangered and threatened wildlife, Exports, Fish, Imports, Marine mammals, Reporting and recordkeeping requirements, Transportation.

Dated: November 14, 1991.

William W. Fox, Jr.,

Assistant Administrator for Fisheries.

For the reasons set out in the preamble, 50 CFR part 222 is amended as follows:

PART 222—ENDANGERED FISH OR WILDLIFE

1. The authority citation for part 222 continues to read as follows:

Authority: 16 U.S.C. 1531 *et seq.*

§ 222.23 [Amended]

2. In § 222.23, paragraph (a) is amended by adding the phrase "Snake River sockeye salmon (*Oncorhynchus nerka*);" immediately after the phrase "Totoaba (*Cynoscian macdonaldi*);" in the second sentence.

[FR Doc. 91–27816 Filed 11–14–91; 4:02 pm]

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Part III

Department of Labor

Employment Standards Administration, Wage and Hour Division

29 CFR Part 570

Occupations Particularly Hazardous for the Employment of Minors Between 16 and 18 Years of Age, or Detrimental to Their Health or Well-Being; Final Rule

DEPARTMENT OF LABOR

Employment Standards Administration, Wage and Hour Division

29 CFR Part 570, Subpart E—Occupations

Particularly Hazardous for the Employment of Minors Between 16 and 18 Years of Age, or Detrimental to Their Health or Well-Being

AGENCY: Wage and Hour Division, Employment Standards Administration, Labor.

ACTION: Final rule.

SUMMARY: This document provides changes to three hazardous Occupations Orders (HOs), issued pursuant to section 3(1) of the Fair Labor Standards Act (hereafter, "FLSA" or "Act"), which prohibit the employment of minors under 18 years of age in occupations declared by the Secretary of Labor to be particularly hazardous for such minors, or detrimental to their health or well-being. The affected HOs are those related to the operation of a motor vehicle (HO 2), the use of power-driven meat processing equipment (HO 10), and the operation of paper-products machines (HO 12).

The changes to the HOs: (1) Eliminate exemption procedures contained in HO 2 which have allowed the employment of minors under 18 years of age as school bus drivers; (2) clarify that restaurants, fast-food establishments, and other retail establishments are subject to HO 10 prohibiting minors under the age of 18 from using power-driven meat processing equipment; (3) specifically provide that power-driven meat slicers are meat processing equipment within the meaning of the HO 10 prohibitions; and (4) amend HO 12 to expressly prohibit minors under the age of 18 from using power-driven paper machinery in the processing of paper, irrespective of the intended use of the processed paper.

EFFECTIVE DATE: The rule is effective December 20, 1991.

FOR FURTHER INFORMATION CONTACT: J. Dean Speer, Director, Division of Policy and Analysis, Wage and Hour Division, Employment Standards Administration, U.S. Department of Labor, room S–3506, 200 Constitution Avenue NW., Washington, DC 20210, (202) 523–8412. This is not a toll-free number.

SUPPLEMENTARY INFORMATION:

I. Background

Sections 3(1) and 12 of the FLSA authorize the Department of Labor to regulate youth employment to ensure that it does not interfere with the schooling, health, or well-being of minors.

Section 3(1) of the FLSA provides a minimum age of 18 years of any nonagricultural occupations which the Secretary of Labor finds to be particularly hazardous for minors 16 and 17 years of age, or detrimental to their health and well-being. The seventeen nonagricultural HOs are contained in 29 CFR Part 570, subpart E.

These revisions to three of the HOs are clarifying modifications that incorporate Departmental regulatory and enforcement policy. The final rule makes only minor revisions to the proposed rule which was published in the **Federal Register** on October 23, 1990 (55 FR 42812).

These changes were recommended by the Child Labor Advisory Committee, which the Department established in August 1987 to provide advice and technical expertise in the development of possible proposals to change the existing child labor standards. The Committee consisted of 21 members, representing employers, education, labor, child guidance professionals, civic groups, child advocacy groups, State officials, and safety groups.

II. Paperwork Reduction Act

These rules contain no reporting or recordkeeping requirements subject to the Paperwork Reduction Act. The general FLSA information collection requirements have been approved by the Office of Management and Budget under the control number 1215–0017.

III. Summary of Comments

HO 2—Occupations of Motor Vehicle Driver and Outside Helper, 29 CFR 570.52

HO 2 contains the finding that employment as a motor vehicle driver or as an outside helper on a motor vehicle is particularly hazardous for minors under the age of 18. The Department proposed a revision to HO 2 to eliminate an exception under which States could request that 16- and 17-year-old youths be permitted to drive school buses. (See 55 FR 42812, October 12, 1990.) Under this exception, the Secretary could grant an exemption for 16- and 17-year-old youths to drive school buses on the basis of the Secretary's approval of an application filed by the Governor of the State in which the vehicle is registered.

Almost all States already prohibit minors from operating school buses, and, in recent years, the Department has been phasing-out the application of this exemption. In proposing to eliminate the exemption, the Department indicated that this change essentially would bring the regulations into conformance with current practice.

As indicated in the October 23, 1990 proposal, when public employees first were brought under coverage of the FLSA by the 1966 Amendments, such employees also became subject to the FLSA's child labor provisions and regulations. A number of States that had been using youths under 18 years of age to drive school buses prior to 1966 appealed to the Secretary for permission to continue that practice. After completion of a study and a public hearing, it was determined at that time that school bus driving was not particularly hazardous for 16- and 17-year-old minors who were carefully selected, trained, and supervised.

In 1968, an amendment to HO 2 was adopted allowing State Governors to apply annually to the Secretary of Labor for authorization to employ 16- and 17-year-old youths to drive school buses in their States. Fourteen States initially applied for the exemption to continue their practice of employing minors under age 18 to drive school buses.

In reviewing requests of Governors to use minors under age 18 to drive school buses, the Secretary weighed their compliance with eleven criteria set forth in the prior rule concerning selection, training, and supervision of the minors employed.

By 1986, through actions of State Departments of Education or laws passed by State legislatures, only nine State Governors requested approval to use 16- and 17-year-old youths to drive school buses. In 1987, applications were received from six State Governors for such approval. In the last two years, however, only the State of Wyoming requested and received approval, and the exemption was requested for and applied to only school District #1, in Washakie County.

Over the years, the concern of the Department of Labor became heightened by an increasing number of school bus accidents involving 16- and 17-year-old drivers where school children were killed or seriously injured.

In a 1982 report, entitled "The 16/17 Year Old School Bus Driver," the Office of Driver and Pedestrian Safety of the National Highway Traffic Safety Administration (NHTSA) concluded that 16- and 17-year-old school bus drivers were overrepresented in school bus accidents. The NHTSA study covered a ten-year period (1969–1979) and the

twelve States that employed school bus drivers under age 18. The study found that on the average 16- and 17-year-old drivers had more accidents per million miles than drivers aged 18 and over. (Sixteen and 17-year-olds accounted for .181 accidents per driver and 22.61 accidents per million miles. Drivers aged 18 and over averaged .093 accidents per driver and 11.60 accidents per million miles.)

In addition, the Fatal Accident Reporting System (FARS) data for 1979 indicated that 16- and 17-year-olds were involved in 8.9% of all fatal school bus accidents, even though they comprised only 2.7% of all school bus drivers in the nation that year.

Following a serious school bus accident in 1985 involving a 17-year-old driver, the National Transportation Safety Board (NTSB) studied the accident rates of 16- and 17-year-old school bus drivers for three school years (1982–83 through 1984–85) for the State in which the accident occurred. The study showed that accident rates for 16- and 17-year-old drivers were significantly higher than those for older school bus drivers. The accident rate per million miles for 16- and 17-year-old drivers was 12.7 for 1982–83, 14.0 for 1983–84, and 13.2 for 1984–85. The accident rate per million miles for 18-year-old and older drivers was 8.1, 10.0, and 9.2, respectively. The NTSB recommended that the three States with the highest accident rates involving 16- and 17-year-olds discontinue the practice of hiring 16- and 17-year-olds to drive school buses.

At its meeting in March 1988, the Child Labor Advisory Committee recommended that there be no exemption from HO 2 to allow school bus driving by 16- and 17-year-olds. The Committee reviewed the States' accident and injury data, the report and recommendations of the NTSB, and other data on the factors attributed to the causes of some of the more serious accidents.

The Committee's rationale was that minors who drive school buses are subject to the following hazards: (1) Minors have difficulty maintaining discipline on school buses due to peer pressure; (2) driving a school bus is a serious responsibility; and (3) 16- and 17-year-old drivers lack experience and maturity, and have poorer judgment than adults.

The Department reviewed the same data utilized by the Committee and also concluded that the occupation of motor vehicle operator is too hazardous for 16- and 17-year-old youths. In comparison to adult drivers, 16- and 17-year-old minors generally have more accidents per million miles and per driver.

Accordingly, in the October 23, 1990 notice, the Department proposed to eliminate the procedures for States to obtain an exemption from HO 2 for school bus drivers.

A total of 12 comments were received on the proposal. Those in favor of the proposal were the National PTA Health and Welfare Commission; the National Consumers League; the Child Labor Coalition; the Food and Allied Service Trades Department, AFL–CIO; the Economic Research Department, AFL–CIO; People Against Dangerous Delivery; and the National Education Association.

Those opposed to the proposal were U.S. Senator Malcolm Wallop; the mayor of the city of Worland, Wyoming; the Washakie, Wyoming County Commissioners; the Admiral Beverage Corporation of Worland, Wyoming; the Stockgrowers State Bank of Worland, Wyoming; and the Washakie, Wyoming County School District #1.

Those in favor of the proposal commented: (1) That youths are involved in more accidents than their adult counterparts, (2) that it is unfortunate that the exemption was ever permitted and that it took accidents with serious injury to change the policy, and (3) that young bus drivers expose themselves and their passengers to peril due to difficulties in maintaining discipline.

In addition, several commenters noted that the Child Labor Advisory Committee had recommended other changes to HO 2—such as modifications to the exemption for incidental and occasional driving—and suggested including these additional changes with those in the proposal.

Those opposed to the proposal argued that the problems experienced in some States using 16 and 17-year old drivers had not occurred in Washakie County. They stated that the Washakie County Student Bus Driver Program had been in place since 1920 and that there had never been a fatality or serious injury in its history. These commenters indicated that the county has a rigorous selection and training process which includes the following elements:

1. Screening of students' school records and recommendations;
2. Completion of 8 hours of classroom training in discipline, communication, defensive driving, and first aid and CPR;
3. Completion of a physical exam;
4. Maintenance by the student of a driving record with no traffic citations; and
5. Semi-monthly observation by an adult on board the bus while the student drives his or her route.

Many of these commenters indicated that the program teaches the students responsibility and pride. They suggested that instead of eliminating the exemption, the Department should establish guidelines to insure that drivers are properly trained and capable of performing the work.

After reviewing and considering the comments submitted, the Department decided to adopt the proposed change. The exemption for school bus drivers has resulted in accidents and serious injuries to minors. At the same time, the Washakie County driving program has a good record, and the Department seeks to minimize the impact of this change. Therefore, the final rule includes a provision which will permit the State of Wyoming to continue to apply for the exemption for the one school district that has utilized the exemption in recent school years (Washakie, County School District #1) through the 1995–1996 school year, provided the district meets the conditions under the previous rule. Thus, the exemption will be phased out completely in 1996.

Finally, with respect to the additional changes to HO 2 recommended by the Child Labor Advisory Committee (which were noted by several commenters), the Department believes that if any such changes are appropriate, they should be made the subject of a separate rulemaking.

HO 10—Occupations Involving Slaughtering, Meat Packing or Processing, or Rendering, 29 CFR 570.61

HO 10, among other things, prohibits the employment of 16- and 17-year-old minors in certain occupations in or about slaughtering and meat packing establishments and rendering plants, and wholesale, retail or service establishments, including the operation or feeding, setting up, adjusting, repairing, oiling, or cleaning of specific power-driven meat-processing machines.

As indicated in the October 23, 1990 proposal, HO 10 applied in its original form to occupations in the slaughtering and meat packing industries. When the Congress amended the FLSA in 1961 to cover certain retail and service enterprises, the Department amended HO 10 to include such firms. Since then, the Department has consistently applied this HO to restaurants and fast-food establishments. Over the past few years, however, there have been several decisions by Administrative Law Judges concerning the application of HO 10 to

restaurants and fast-food establishments holding that the language of the HO in the prior rule did not apply to such establishments. On the other hand, a number of decisions by Administrative Law Judges and a federal district court decision have upheld the Department's position. The Department requested that the Child Labor Advisory Committee also review this issue.

After reviewing the regulations, relevant case law, and other pertinent background information, the Committee recommended that HO 10 be modified to clarify that restaurants and fast-food establishments are included within the HO's definition of wholesale and retail or service establishments. The Department subsequently decided to propose revisions to HO 10 to clarify that restaurants and fast-food establishments, as well as all other retail or service establishments, are subject to this Hazardous Occupations Order.

Additionally, although not specifically named in the prior HO, the Department has consistently interpreted the HO 10 prohibition against the use of power-driven knives as applying to meat slicers. The Committee also was asked to review this matter and subsequently recommended that the Department codify this interpretation by specifically listing power-driven meat slicers. The proposed rule reflected this change.

The October 23, 1990 proposal also solicited comments and data on the safety of meat slicers used in food service establishments. Commenters were requested to address injury rates, types of injuries, types of machines, and circumstances surrounding injuries by meat slicers used in food service establishments. Information was also requested on the safety-related design and guarding of such machines used in these establishments. Stratification of these data by age was encouraged, although the proposal stated that data on the safety of the machines for all employees would also be useful. The proposal indicated that information received would be analyzed to determine whether the final HO 10 should specifically include meat slicers, exclude meat slicers, or include meat slicers while further study is undertaken.

A total of 10 comments were received on the proposal to amend HO 10. Those in favor of the proposal were the National PTA Health and Welfare Commission; the National Consumers League; the Child Labor Coalition; the Food and Allied Service Trades Department, AFL–CIO; the Economic Research Department, AFL–CIO; the National Education Association; and the Secretary of Labor for the State of Delaware. Those opposed to the proposal were the Foodservice and Lodging Institute, the National Grocers Association, and the National Restaurant Association.

Those in favor of the proposal stated that it is the machine that should be regulated, not the workplace where it is operated or the type of product being processed. Several commented that the proposal would merely eliminate any doubt about the interpretation of the HO. The Delaware Secretary of Labor stated that injuries by the use of meat slicers represent 10 percent of all compensable injuries to minors in the State (i.e., injuries resulting in four or more work days lost). Some commented that increasing numbers of students are employed by fast-food restaurants and delicatessens and more minors are being allowed to operate meat slicers. One commenter noted that recent Congressional hearings featured victims who had lost fingers as a result of accidents with meat slicers in restaurants and fast-food establishments.

Several of these commenters suggested that other changes to HO 10 recommended by the Child Labor Advisory Committee be incorporated into the final rule, such as expanding the prohibition to cover additional types of food processing equipment.

Those opposed to the proposal commented that the modifications are overly broad and unnecessary. They stated that HO 10 when it was promulgated in 1952 covered only slaughtering and packing establishments and rendering operations, and that the prohibitions today cover only occupations involving such activities. They commented that numerous decisions by Administrative Law Judges have held that HO 10 does not apply to restaurant establishments. They also argued that the Department has not met the regulatory requirement to conduct an investigation to determine whether the use of meat slicers in retail food stores, restaurants, and delicatessens is particularly hazardous to 16 and 17-year olds. In addition, one commenter suggested that the Department should apply the new rule only prospectively.

As noted above, when the Congress amended the FLSA in 1961 to cover certain retail and service enterprises, the Department amended HO 10 to include such firms. Also, as noted above, a number of decisions by Administrative Law Judges and a federal district court decision have upheld the Department's position. The Department has consistently applied HO 10 to operation of meat slicers in restaurants and fast-food establishments. However, because of conflicting decisions construing the provision, the Department concluded that it was appropriate to amend HO 10 to make its application to operation of meat slicers in such establishments explicit.

With respect to the comment concerning the need for an investigation, the changes to HO 10 are merely clarifying revisions to reflect interpretations of the existing regulations. Also, there is no reason to apply the rule only prospectively because these clarifying revisions do not change the Department's existing interpretations or practices.

These commenters further stated that the operation of meat slicers in restaurants, fast-food establishments, and grocery stores is safe, provided the workers are adequately trained and supervised. They urged that the Department not assert violations where such training and supervision is in place. In this regard, a number of the HOs, including HO 10, already contain exemptions for 16 and 17-year-old apprentices and student-learners. Alternatively, one commenter suggested that the Department establish one or more independent safety panels, comprised of safety experts to collect data on injuries and information about the causes of such injuries, conduct research and investigations of the equipment covered by HO 10, and establish safety standards for the use of such equipment by minors. These commenters also indicated that modern meat slicing machines have numerous safety features, such as fully automated modes of operation, special blade guards to prevent injury during operation, and ring guards to prevent injury during cleaning.

One commenter questioned the rationale for permitting an exemption for certain types of bacon slicers which, it indicated, are much more complex and dangerous in terms of moving parts, size, and potential for hazardous incidents than meat slicers used in retail establishments. In this regard, bacon-slicing machines are outside the scope of this rulemaking which is limited to clarifications that reflect Departmental regulatory and enforcement policy. Therefore, if any change is appropriate for bacon slicers, it must be the subject of a separate rulemaking.

Another commenter questioned why the regulations permit student learners and apprentices to operate meat slicers during their training period but does not permit them to do so once the training

program is completed. However, the regulations do permit the employment of a high school graduate in an occupation in which training has been completed as a student-learner even though the youth is not yet 18 years of age.

The National Grocers Association furnished their own analysis of data which had been reviewed by the Child Labor Advisory Committee on injuries to minors as reported by field staff of the Wage and Hour Division. (The data involved reports of injuries to 23 minors age 16 and 17 who were injured by meat slicers during the years 1983 to 1987.) The Association argued that the data and information provided are insufficient to warrant amending HO 10 to prohibit the operation of meat slicers by 16- and 17-year olds, particularly in light of the fact that there are 2.3 million 16- and 17-year-olds employed in the retail industry.

The Department's position is not based on conclusions drawn from available statistical evidence as is suggested by the commenter. The Department has made its position clear. As indicated in the preamble to the proposed rule, the use of meat slicers in restaurants, grocery stores and fast-food establishments has been prohibited by this HO since it was amended in the early 1960's to coincide with the application of enterprise coverage to retail and service establishments. The proposed clarification merely serves to eliminate any doubts about the application of the HO to the entire retail sector and specifically about the application of the HO to meat slicers in such establishments.

In this regard, the preamble to the proposed rule did request commenters to furnish data on injuries caused by power-driven meat slicers. The Department intended that if data were received which established that the machines are not particularly hazardous for 16- and 17-year-olds, the HO would be revised to exclude meat slicers from the HO in the future. The Department intended that if data were received which raised serious doubts but was not conclusive, the HO would continue to include meat slicers while the issue was studied.

None of the commenters submitted any statistical data to support their contentions. As noted above, the National Grocers Association furnished an analysis of data that had been considered by the Child Labor Advisory Committee during the course of their HO review. While data on injuries to minors uncovered during child labor investigations is helpful to the process of HO evaluation, the data before the Advisory Committee does not constitute any type of comprehensive data base. In fact, the lack of comprehensive statistics on injured minors in the workplace is a major concern of the Department and the development of reliable youth injury statistics is among the assignments of a special Child Labor Task Force established by the Department. This task force has, for example, been exploring the possibility of enhancing the information reported by the Bureau of Labor Statistics under their Supplemental Data System (SDS) which collects some data on youths who have filed workers' compensation claims in 24 participating States. A review of the data that is available, however, does indicate a high incidence of accidents involving youths using power driven meat slicers in retail settings. Accordingly, after review of all of the comments received, the Department has decided to adopt the proposed rule as a final rule.

In addition, as suggested in several comments in favor of the proposal, the final rule includes specific examples of non-meat products (such as vegetables, cheese and bread) which are sometimes sliced with meat slicers, and therefore are within the prohibition of HO 10.

Finally, with respect to additional changes to HO 10 recommended by the Child Labor Advisory Committee (which were noted by several commenters), the Department believes that if any such changes are appropriate, they should be made the subject of a separate rulemaking.

HO 12—Occupations Involved in the Operation of Paper-Products Machines, 29 CFR 570.63

In the October 23, 1990 **Federal Register** notice, the Department proposed to revise HO 12 to clarify that it applies to operation of power-driven paper machines to convert paper into waste paper, in addition to the use of such equipment in the remanufacture of paper or pulp. Since the intent of the HO is to prevent injury, the Department has maintained that the location of a machine or its specific use should not be a determining factor in applying the prohibitions of the HO. The Child Labor Advisory Committee recommended that HO 12 be revised to prohibit the operation of all power-driven paper products machines, regardless of the products being manufactured or processed, or the type of establishment in which they are used.

The prior HO 12 defined the term "paper products machine" to include scrap-paper balers and other power-driven machines "used in the remanufacture or conversion of paper or pulp into a finished product." The Department's experience has shown that scrap-paper balers are used in many grocery and other retail stores and operations to compact empty boxes and other forms of waste paper for the purpose of disposal. In publishing its proposal, the Department stated that the change would clarify the issue regarding the ultimate disposition of the paper and provide a proper focus on the intent of the prohibition, which is to prevent injury to minors based on the potential hazards of operating the equipment.

The preamble to the proposed rule indicated that the change merely would clarify that the use of power-driven paper products machines is within the scope of HO 12, irrespective of the ultimate use of the paper product processed or the type of establishment in which such machines are used.

A total of 8 comments were received on the proposal to amend HO 12. Those in favor of the proposal were the National PTA Health and Welfare Commission; the National Consumers League; the Child Labor Coalition; the Food and Allied Service Trades Department, AFL–CIO; the Economic Research Department, AFL–CIO; and the National Education Association. Those opposed to the proposal were the National Grocers Association and the Food Marketing Institute.

Those in favor of the proposal stated that the use of paper products machinery is dangerous, regardless of the location of the machine (i.e., a retail or manufacturing establishment) and regardless of the end product of the machine. Several of these commenters pointed out that the Child Labor Advisory Committee recommended expanding the HO to include other machinery, such as paper shredders.

Those opposed to the proposal indicated that the rule is overly broad and unnecessary; that paper balers have key locks or other safeguards that preclude operation while the gate is open; and that 16- and 17-year olds should be able to carry boxes to the baler and place them inside, since this is not a dangerous activity. They stated that because of the large quantity of cardboard and paper waste that accumulates in grocery stores, disposal cannot be delegated to just one or two individuals. They indicated that customer and employee safety depends on continuous disposal of this material. One commenter questioned why placing cardboard into a baler is prohibited, but placing cardboard into a trash bin is not, and the rationale for the Department's interpretation that merely placing or tossing cardboard into a baler is prohibited.

These commenters stated that the Department had not done an investigation of the actual operation of paper balers in retail establishments, the safety mechanisms and training methods in use, and the number and kind of injuries. However, because these clarifying revisions merely ensure that the regulation conforms to its intent, prohibiting the operation of paper products machines, regardless of the ultimate disposition of the product, an investigation is unnecessary. One commenter pointed to the exemption for apprentices and student-learners and suggested that similar allowances should be made for on-the-job training. Another commenter suggested that the Department consider alternatives to expansion of the HO, e.g., special training programs or application of the prohibition only to certain steps in the process. The regulations already permit training of student-learners and apprentices; any other on-the-job training allowance as suggested is considered unnecessary.

One commenter stated that since almost all stores compact cardboard and paper for re-cycling, rather than for remanufacturing or disposal, the new rule would have little practical effect.

After carefully reviewing the comments, the Department decided to adopt the proposal as a final rule. The Department maintains that the dangers of using paper balers is not dependent on the location of the machine or the ultimate use of the finished product. Furthermore, all the HO's traditionally have been construed broadly to include any assistance in the operation of prohibited machinery, so as to reduce the likelihood that a young person may engage in any dangerous activity (such as taking over for another worker for "just a minute", clearing stuck materials from the equipment, risking injury from being struck by snapping baling wires, etc.). To clarify, however, "assisting to operate" would not include the stacking of cardboard boxes or paper by an employee in adjacent areas in close proximity to a machine subject to this order where the employee does not place the materials into the machine, and the final rule has been revised in this respect. With respect to the use of paper balers for re-cycling purposes, the Department believes such use has always been covered by the HO under the term "remanufacture". However, the final rule expressly includes the term "re-cycling" along with remanufacturing and disposal in the scope of the HO.

Finally, with respect to the additional changes to HO 12 recommended by the Child Labor Advisory Committee (which were noted by several commenters), the Department believes that if any such changes are appropriate, they should be made the subject of a separate rulemaking.

IV. Executive Order 12291

This rule is not classified as a "major rule" under Executive Order 12291 on Federal Regulations, because it is not likely to result in: (1) An annual effect on the economy of $100 million or more; (2) a major increase in costs or prices for consumers, individual industries, Federal, State or local government agencies, or geographic regions; or (3) significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets. Therefore, no regulatory impact analysis is required.

This regulation is a restatement of long standing enforcement and policy positions of the Department. There are a few employers in the retail and service industry who have in the past operated as though they were not subject to the prohibitions clarified by these regulations (e.g., child labor investigations during 1990 disclosed 63 employers in the retail and service industry who were in violation of HO 10, virtually none of which contested the applicability of the HO). This clarifying regulation will eliminate confusion on the part of these employers. Since these employers comprise a small minority, (most employers are complying with the guidelines of the existing regulation), the cost impact of this regulation is considered *de minimis*.

V. Regulatory Flexibility Act

This rule will not have a significant effect on a substantial number of small entities. This conclusion is based on all information presently available to the Department. As indicated in the preamble to the proposed rule (55 FR 42812, October 23, 1990), the Secretary has certified to the Chief Counsel for Advocacy of the Small Business Administration to this effect. As discussed above, the revisions to these three HOs are clarifying modifications that reflect existing Departmental regulatory and enforcement policy.

VI. Document Preparation

This document was prepared under the direction and control of Samuel D. Walker, Acting Administrator, Wage and Hour Division, Employment Standards Administration, U.S. Department of Labor.

List of Subjects in 29 CFR Part 570

Employment, Investigations, Labor, Law enforcement.

Signed at Washington, DC, on this 14th day of November 1991.

Lynn Martin,

Secretary of Labor.

Cari M. Dominguez,

Assistant Secretary for Employment Standards.

Samuel D. Walker,

Acting Administrator, Wage and Hour Division.

For the reasons set out in the preamble, title 29, part 570, subpart E of the Code of Federal Regulations is amended as follows:

PART 570—CHILD LABOR REGULATIONS, ORDERS AND STATEMENTS OF INTERPRETATION

1. The authority citation for part 570 continues to read as follows:

Authority: Secs. 3, 11, 12, 52 Stat. 1060, as amended, 1066, as amended, 1067, as amended; 29 U.S.C. 203, 211, 212.

2. Section 570.52 is revised to read as follows:

§ 570.52 Occupations of motor-vehicle driver and outside helper (Order 2).

(a) *Findings and declaration of fact.* Except as provided in paragraph (b) of this section, the occupations of motor-vehicle driver and outside helper on any public road, highway, in or about any mine (including open pit mine or quarry), place where logging or sawmill operations are in progress, or in any excavation of the type identified in § 570.68(a) are particularly hazardous for the employment of minors between 16 and 18 years of age.

(b)(1) *Exemption—Incidental and occasional driving.* The findings and declaration in paragraph (a) of this section shall not apply to the operation of automobiles or trucks not exceeding 6,000 pounds gross vehicle weight if such driving is restricted to daylight hours; *provided,* such operation is only occasional and incidental to the minor's employment; that the minor holds a State license valid for the type of driving involved in the job performed and has completed a State approved driver education course; and *provided further,* that the vehicle is equipped with a seat belt or similar restraining device for the driver and for each helper, and the employer has instructed each minor that such belts or other devices must be used. This paragraph shall not be applicable to any occupation of motor-vehicle driver which involves the towing of vehicles.

(2) *Special exemption for school bus driving through 1995–1996 school year.* The Secretary of Labor shall have the discretion to grant an exemption from the finding and declaration in paragraph (a) of this section for school bus driving by students on the basis of an application filed and approved by the Governor of the State in which the vehicle is registered, *provided* that such exemption can only be granted to a school district in which student drivers were employed under this exemption during the school years 1989–1990 and 1990–1991. An application for such school district may be filed for each school year up to and including school year 1995–1996, and thereafter school bus driving by students who are minors between 16 and 18 years of age will no longer be permitted. In evaluating the annual application for such exemption, the Secretary will consider the following:

(i) Whether the accident experience of school bus drivers under 18 years of age in the State, if any are employed, compares favorably with that of adult school bus drivers.

(ii) Whether school bus drivers are selected by the school principal and approved by the county superintendent or an official of equivalent responsibility.

(iii) Whether school bus drivers are required to have completed a State approved driver education course, or a special school bus driver training course prior to being allowed to transport passengers.

(iv) Whether training and testing of school bus drivers includes classroom and behind-the-wheel training and is done by qualified officials.

(v) Whether school bus drivers are required to pass a physical examination.

(vi) Whether the operation of school buses is supervised by the school principal, the transportation or other equivalent officer, and State, county, or city police.

(vii) Whether school buses are thoroughly inspected a minimum of four times a year at a State, district, or county inspection station and receive maintenance and repairs at regular intervals to ascertain and insure their safe operating conditions on a continuous basis, and that all inspections, maintenance, and repairs are performed by qualified inspectors and mechanics.

(viii) Whether school bus drivers are provided with and required to use seat belts.

(ix) Whether adequate measures are taken by State and local officials to control the speed of school buses in order to insure that the buses are not driven at a speed greater than is reasonable and prudent.

(x) Whether adult chaperons, approved by local school authorities, accompany school bus drivers on special activity trips sponsored by the school.

(xi) Whether the school buses conform substantially to the minimum Standards for School Buses, 1964 Revised Edition, recommended by the National Conference on School Transportation and published by the National Education Association.

(xii) Any other factors with the Secretary may find relevant in evaluating the application for exemption.

(c) *Definitions.* For the purpose of this section:

(1) The term *motor vehicle* shall mean any automobile, truck, truck-tractor, trailer, semitrailer, motorcycle, or similar vehicle propelled or drawn by mechanical power and designed for use as a means of transportation but shall not include any vehicle operated exclusively on rails.

(2) The term *driver* shall mean any individual who, in the course of employment, drives a motor vehicle at any time.

(3) The term *outside helper* shall mean any individual, other than a driver, whose work includes riding on a motor vehicle outside the cab for the purpose of assisting in transporting or delivering goods.

(4) The term *gross vehicle weight* includes the truck chassis with lubricants, water and a full tank or tanks of fuel, plus the weight of the cab or driver's compartment, body and special chassis and body equipment, and payload.

3. Section 570.61 is revised to read as follows:

§ 570.61 Occupations in the operation of power-driven meat-processing machines and occupations involving slaughtering, meat packing or processing, or rendering (Order 10).

(a) *Findings and declaration of fact.* The following occupations in or about slaughtering and meat packing establishments, rendering plants, or wholesale, retail or service establishments are particularly hazardous for the employment of minors between 16 and 18 years of age or detrimental to their health or well-being:

(1) All occupations on the killing floor, in curing cellars, and in hide cellars, except the work of messengers, runners, handtruckers, and similar occupations which require entering such workrooms or workplaces infrequently and for short periods of time.

(2) All occupations involved in the recovery of lard and oils, except packaging and shipping of such products and the operation of lard-roll machines.

(3) All occupations involved in tankage or rendering of dead animals, animal offal, animal fats, scrap meats, blood, and bones into stock feeds, tallow, inedible greases, fertilizer ingredients, and similar products.

(4) All occupations involved in the operation or feeding of the following power-driven machines, including setting-up, adjusting, repairing, oiling, or cleaning such machines, regardless of the product being processed by these machines (including, for example, the slicing in a retail delicatessen of meat, poultry, seafood, bread, vegetables, or cheese, etc.): Meat patty forming machines, meat and bone cutting saws, meat slicers, knives (except bacon-slicing machines), headsplitters, and guillotine cutters; snoutpullers and jaw-pullers; skinning machines; horizontal rotary washing machines; casing-cleaning machines such as crushing, stripping, and finishing machines; grinding, mixing, chopping, and hashing machines; and presses (except belly-rolling machines).

(5) All boning occupations.

(6) All occupations that involve the pushing or dropping of any suspended carcass, half carcass, or quarter carcass.

(7) All occupations involving handlifting or handcarrying any carcass or half carcass of beef, pork, or horse, or any quarter carcass of beef or horse.

(b) *Definitions.* As used in this section:

(1) The term *slaughtering and meat packing establishments* means places in or about which cattle, calves, hogs, sheep, lambs, goats, or horses are killed, butchered, or processed. The term also includes establishments which manufacture or process meat products or sausage casings from such animals.

(2) The term *rendering plants* means establishments engaged in the conversion of dead animals, animal offal, animal fats, scrap meats, blood, and bones into stock feeds, tallow, inedible greases, fertilizer ingredients, and similar products.

(3) The term *killing floor* includes a workroom, workplace where cattle, calves, hogs, sheep, lambs, goats, or horses are immobilized, shackled, or killed, and the carcasses are dressed prior to chilling.

(4) The term *curing cellar* includes a workroom or workplace which is primarily devoted to the preservation and flavoring of meat by curing materials. It does not include a

workroom or workplace solely where meats are smoked.

(5) The term *hide cellar* includes a workroom or workplace where hides are graded, trimmed, salted, and otherwise cured.

(6) The term *boning occupations* means the removal of bones from meat cuts. It does not include work that involves cutting, scraping, or trimming meat from cuts containing bones.

(7) The term *retail/wholesale or service establishments* includes establishments where meat or meat products are processed or handled, such as butcher shops, grocery stores, restaurants/fast-food establishments, hotels, delicatessens, and meat-locker (freezer-locker) companies, and establishments where any food product is prepared or processed for serving to customers using machines prohibited by section (a) of this Order.

(c) *Exemptions.* This section shall not apply to:

(1) The killing and processing of poultry, rabbits, or small game in areas physically separated from the killing floor.

(2) The employment of apprentices or student-learners under the conditions prescribed in § 570.50(b) and (c).

4. Section 570.63 is revised to read as follows:

§ 570.63 Occupations involved in the operation of paper-products machines (Order 12).

(a) *Findings and declaration of fact.* The following occupations are particularly hazardous for the employment of minors between 16 and 18 years of age:

(1) The occupations of operation or assisting to operate any of the following power-driven paper products machines:

(i) Arm-type wire stitcher or stapler, circular or band saw, corner cutter or mitering machine, corrugating and single-or-double-facing machine, envelope die-cutting press, guillotine paper cutter or shear, horizontal bar scorer, laminating or combining machine, sheeting machine, scrap-paper baler, or vertical slotter.

(ii) Platen die-cutting press, platen printing press, or punch press which involves hand feeding of the machine.

(2) The occupations of setting up, adjusting, repairing, oiling, or cleaning these machines including those which do not involve hand feeding.

(b) *Definitions.* (1) The term *operating or assisting to operate* shall mean all work which involves starting or stopping a machine covered by this section, placing or removing materials into or from the machine, or any other work directly involved in operating the machine. The term does not include the stacking of materials by an employee in an area nearby or adjacent to the machine where such employee does not place the materials into the machine.

(2) The term *paper products* machine shall mean all power-driven machines used in:

(i) The remanufacture or conversion of paper or pulp into a finished product, including the preparation of such materials for re-cycling; or

(ii) The preparation of such materials for disposal. The term applies to such machines whether they are used in establishments that manufacture converted paper or pulp products, or in any other type of manufacturing or nonmanufacturing establishment.

(c) *Exemptions.* This section shall not apply to the employment of apprentices or student-learners under the conditions prescribed in § 570.50 (b) and (c).

[FR Doc. 91-27865 Filed 11-19-91; 8:45 am]

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federal register

Wednesday
November 20, 1991

Part IV

Department of Justice

Bureau of Prisons

28 CFR Part 542

Control, Custody, Care, Treatment, and Instruction of Inmates; Administrative Remedy Procedure; Final Rule

DEPARTMENT OF JUSTICE

Bureau of Prisons

28 CFR Part 542

Control, Custody, Care, Treatment and Instruction of Inmates; Administrative Remedy Procedure

AGENCY: Bureau of Prisons, Justice.

ACTION: Final rule.

SUMMARY: In this document, the Bureau of Prisons is amending its rule on Administrative Remedy Procedure to update procedures for acknowledging receipt of a complaint or appeal and to include revised delegations of authority to the Deputy Regional Director and to the National Inmate Appeals Administrator for responding to and signing all complaints or appeals filed at the regional or central office level. Signatory authority extends to staff designated as acting in the capacities specified, but may not be further delegated without the written approval of the General Counsel. The intent of this amendment is to incorporate into this rule procedural changes in the administrative remedy process which help to ensure the efficient operation of the Administrative Remedy Procedure.

EFFECTIVE DATE: November 20, 1991.

ADDRESSES: Office of General Counsel, Bureau of Prisons, HOLC room 754, 320 First Street, NW., Washington, DC 20534.

FOR FURTHER INFORMATION CONTACT: Roy Nanovic, Office of General Counsel, Bureau of Prisons, phone (202) 307–3062.

SUPPLEMENTARY INFORMATION: The Bureau of Prisons is amending its rule on the Administrative Remedy Procedure. A final rule on this subject was published in the **Federal Register** October 29, 1979 (44 FR 66248).

Former § 542.11(a)(2) had specified that the Warden, Regional Director, and General Counsel shall acknowledge receipt of a complaint or appeal by returning to the inmate a signed receipt. Such receipts are currently generated by computer and routed electronically to the institution for delivery to the inmate. The use of these computer-generated forms has obviated the necessity for a signature on these receipts.

Former § 542.11(a)(4) had specified that the Warden, Regional Director, and General Counsel shall respond to and sign all complaints or appeals filed at their level, and that this responsibility may not be delegated further. The position of Deputy Regional Director, which did not exist at the time this rule was promulgated, was created in order to provide administrative continuity at the regional level. Delegating this signatory authority at the regional level to the Deputy Regional Director is entirely commensurate with the duties of the Deputy Regional Director and ensures that appeals to the regional level will be handled with efficiency and responsiveness by an appropriate official. Delegation of signatory authority within the Office of General Counsel to the National Inmate Appeals Administrator places this authority with an official whose primary duty is to ensure efficient and appropriate responses to appeals. This will help ensure continuity, efficiency, and responsiveness to central office appeals. Signatory authority extends to staff designated as acting in the capacities specified, but may not be further delegated without the written approval of the General Counsel. The Bureau does not anticipate further delegation of authority in this regard, but wishes to allow for the exercise of discretion by the General Counsel if warranted at some future time.

In summary, these delegations of signature authority and the revised procedures for acknowledging receipt of a complaint or appeal help ensure the continued orderly operation of the Administrative Remedy Procedure, without posing any adverse effect on the inmate.

Because this rule deals with agency procedure and imposes no restrictions on inmates, the Bureau finds good cause for exempting the provisions of the Administrative Procedure Act (5 U.S.C. 553) requiring notice of proposed rulemaking, the opportunity for public comment, and delay in effective date. Members of the public may submit comments concerning this rule by writing to the previously cited address. These comments will be considered but will receive no response in the **Federal Register.**

The Bureau of Prisons has determined that this rule is not a major rule for the purpose of Executive Order 12291. The Bureau has determined that Executive Order 12291 does not apply to this rule since the rule involves agency management. After review of the law and regulations the Director, Bureau of Prisons has certified that this rule, for the purpose of the Regulatory Flexibility Act (Pub. L. 96–354), does not have a significant impact on a substantial number of small entities.

List of Subjects in 28 CFR Part 542

Prisoners.

Dated: November 13, 1991.

J. Michael Quinlan,

Director, Bureau of Prisons.

Accordingly, pursuant to the rulemaking authority vested in the Attorney General in 5 U.S.C. 552(a) and delegated to the Director, Bureau of Prisons in 28 CFR 0.96(q), part 542 in subchatper C of 28 CFR, chapter V is amended as set forth below.

Subchapter C—Institutional Management

PART 542—ADMINISTRATIVE REMEDY

1. The authority citation for 28 CFR part 542 is revised to read as follows:

Authority: 5 U.S.C. 301; 18 U.S.C. 3621, 3622, 3624, 4001, 4042, 4081, 4082 (Repealed in part as to offenses committed on or after November 1, 1987), 5006–5024 (Repealed October 12, 1984 as to offenses committed after that date), 5039; 28 U.S.C. 509, 510; 28 CFR 0.95–0.99.

2. In § 542.11, paragraph (a)(2) is amended by removing the word "signed" and paragraph (a)(4) is revised to read as follows:

§ 542.11 Responsibility.

(a) * * *

(4) Respond to and sign all complaints or appeals filed at their level. At the regional level, signatory authority may be delegated to the Deputy Regional Director. At the central office level, signatory authority may be delegated to the National Inmate Appeals Administrator. Signatory authority extends to staff designated as acting in the capacities specified in this § 542.11, but may not be further delegated without the written approval of the General Counsel.

* * * * *

[FR Doc. 91–27891 Filed 11–19–91; 8:45 am]

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H.R. 2686/Pub. L. 102-154

Department of the Interior and Related Agencies Appropriations Act, 1992. (Nov. 13, 1991; 105 Stat. 990; 48 pages) Price: $1.50

H.J. Res. 175/Pub. L. 102-155

To designate the weeks beginning December 1, 1991, and November 29, 1992, as "National Home Care Week". (Nov. 13, 1991; 105 Stat. 1038; 1 page) Price: $1.00

H.J. Res. 177/Pub. L. 102-156

To designate November 16, 1991, as "Dutch-American Heritage Day". (Nov. 13, 1991; 105 Stat. 1039; 1 page) Price: $1.00

H.J. Res. 281/Pub. L. 102-157

Approving the extension of nondiscriminatory treatment with respect to the products of the Mongolian People's Republic. (Nov. 13, 1991; 105 Stat. 1040; 1 page) Price: $1.00

H.J. Res. 282/Pub. L. 102-158

Approving the extension of nondiscriminatory treatment with respect to the products of the People's Republic of Bulgaria. (Nov. 13, 1991; 105 Stat. 1041; 1 page) Price: $1.00

S. 1848/Pub. L. 102-159

Dropout Prevention Technical Correction Amendment of 1991. (Nov. 13, 1991; 105 Stat. 1042; 1 page) Price: $1.00

S.J. Res. 36/Pub. L. 102-160

To designate the months of November 1991, and November 1992, as "National Alzheimer's Disease Month". (Nov. 13, 1991; 105 Stat. 1043; 2 pages) Price: $1.00

S.J. Res. 145/Pub. L. 102-161

Designating the week beginning November 10, 1991, as "National Women Veterans Recognition Week". (Nov. 13, 1991; 105 Stat. 1045; 2 pages) Price: $1.00

S.J. Res. 188/Pub. L. 102-162

Designating November 1991 as "National Red Ribbon Month". (Nov. 13, 1991; 105 Stat. 1047; 1 page) Price: $1.00

H.J. Res. 374/Pub. L. 102-163

Making further continuing appropriations for the fiscal year 1992, and for other purposes. (Nov. 15, 1991; 105 Stat. 1048; 1 page) Price: $1.00

H.R. 3575/Pub. L. 102-164

Emergency Unemployment Compensation Act of 1991. (Nov. 15, 1991; 105 Stat. 1049; 21 pages) Price: $1.00

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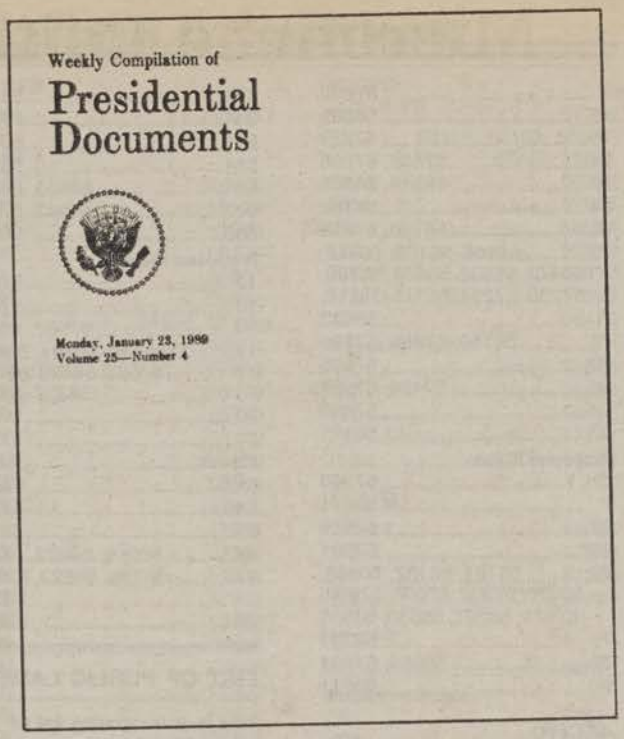

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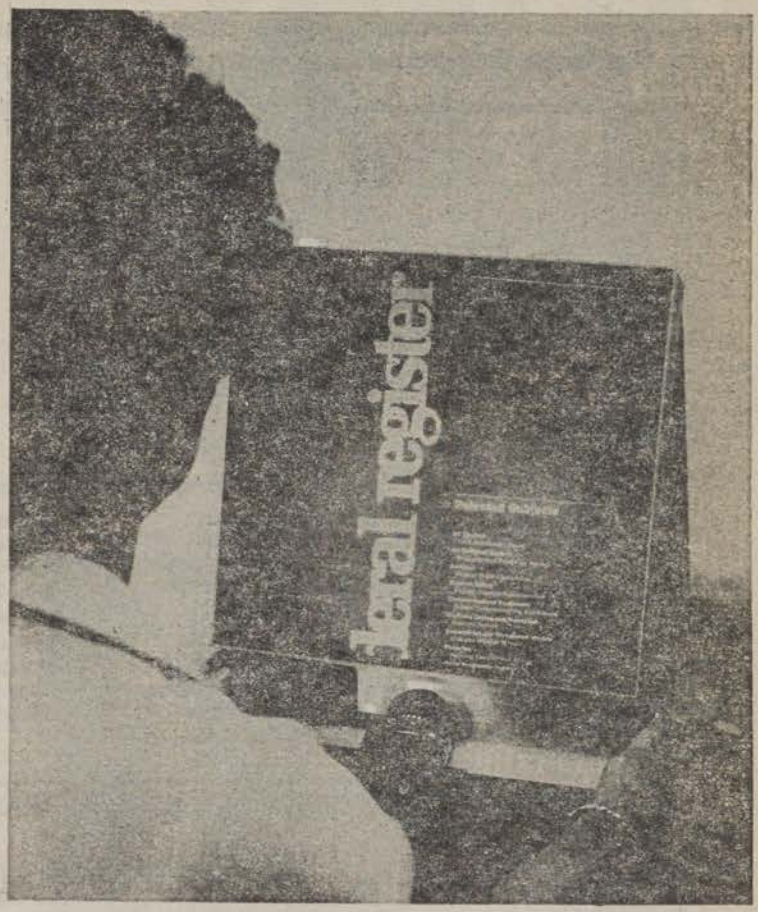

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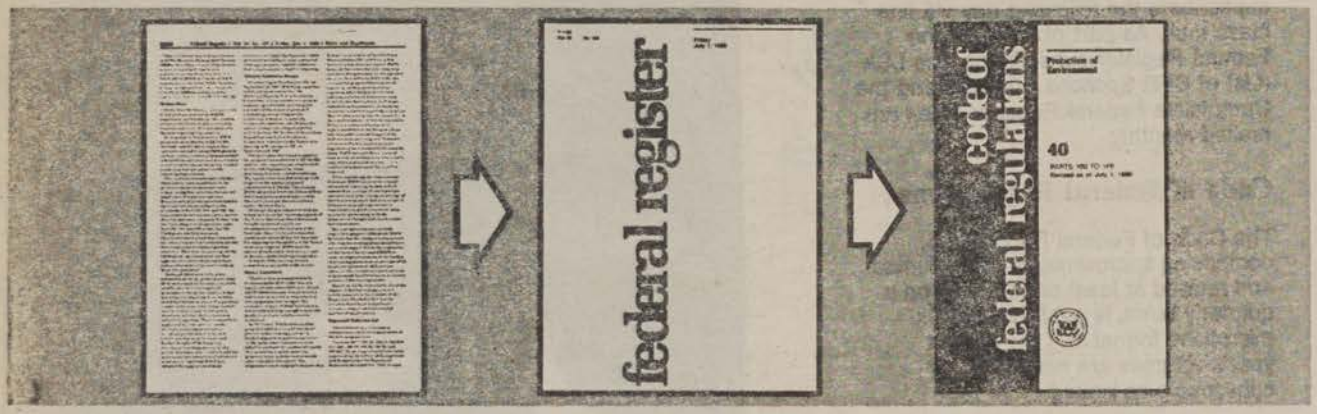

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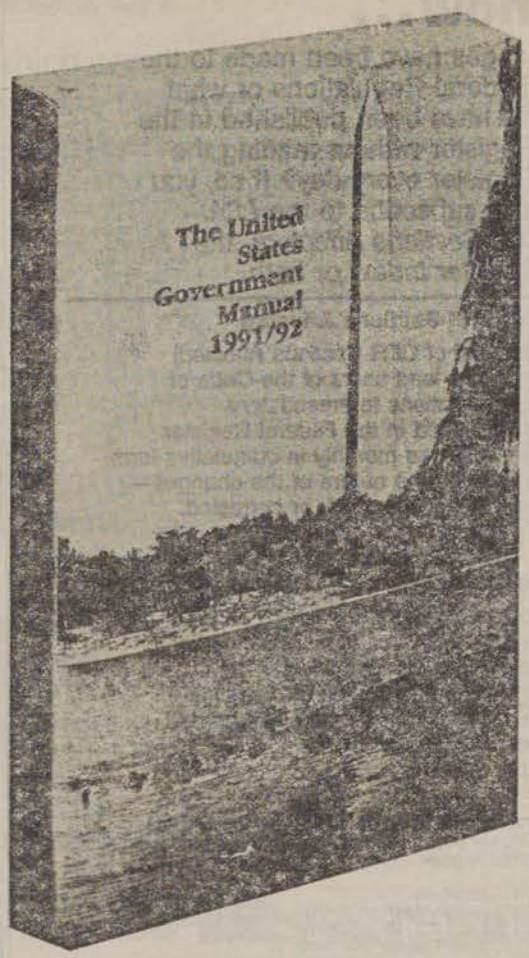

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